



# QUEER IN EUROPE DURING THE SECOND WORLD WAR

Edited by  
Régis Schlagdenhauffen

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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ÉCRIRE UNE HISTOIRE NOUVELLE DE L'EUROPE

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# Introduction

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*Fabrice Virgili and Julie Le Gac*

**T**he pink triangle, or *Rosa Winkel* in German, has become a symbol of the fight for gay rights since its adoption by gay activists in the 1970s, first in West Germany and then in the United States. It was their way of inverting the infamous Nazi symbol and remembering the Second World War. After falling into oblivion for three decades, the pink triangle worn by detainees in Nazi concentration camps because of their homosexuality came to be emblematic of the fate of homosexuals during the war. Tens of thousands of men paid for their sexual orientation with their lives and their story became one to remember among gay and lesbian movements in their quest for recognition. There is an abundance of literature nowadays on the persecution of homosexuals under the Third Reich. But much less is known about the daily lives in those times of the millions of homosexual men and women all over Europe living in Axis, Allied or even neutral countries, in the heart or on the fringes of the war.

It was only logical, therefore, that the project *Writing a New History of Europe (Écrire une histoire nouvelle de l'Europe – EHNE)*<sup>1</sup> should take an interest in their story. It is a “new history” because of its scale, deliberately embracing the whole European continent, approaching the subject from every angle, including gender and, in particular, areas in which there has been little research. It is our opinion that history at the national level, like a close-up shot in a film, leaves too many factors out of the picture that are essential to our understanding of historical events.

It is a “new history” also because in addition to international relations, exchanges between states, population movements, and cultural, technological or other types of exchanges and transfers, we want to consider relations from a sexual standpoint, movements in terms of gender, transfers in the private sphere. For some time now, research on the war years has taken an interest in the gender issues involved, be it the absence of so many men, sent off to war; sexuality as an object of violence to the point of becoming a weapon of war; or the encounters triggered by people's movements, often imposed, that while they may have resulted in death, sometimes also resulted in love. Thus far, research into the effects of the war on people's private lives has focused mainly on heterosexual relations. It was important, therefore, to extend the focus to include homosexuality. What happens at a time when the usual social context, the peacetime environment, is altered, when circumstances increasingly throw men together and many people are tempted to seek escape from deathly reality and shun Thanatos for Eros?

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1. Conducted by five Centre national de la recherche scientifique (CNRS) laboratories and three French universities (Nantes, Paris 1 Panthéon-Sorbonne, Paris-Sorbonne) and their international networks.

These are important questions. Opening up a whole new field of knowledge is an exciting prospect, both for the study of populations in times of war and to understand the attitude of our societies towards the sexual orientations of the individuals that form them. Like any pioneering work, it is an example of history in the making, a look inside the historian's workshop. For such a task shows us exactly where research on the subject stands, with its discrepancies, its advances and its occasional doubts. First, there are the sources, the different deposits of the "raw material" used by historians: easily accessible archives of declassified and carefully catalogued information or, on the contrary, scattered references that are difficult to assemble and require lengthy, patient efforts to collate. We present some initial case studies, always indispensable when looking into a new subject, and other, more extensive works that help to sketch a broader initial picture on a regional scale.

With this book, Régis Schlagdenhauffen, a member of the Gender & Europe team of the EHNE project known for his works on how homosexuals under the Nazi regime are remembered, has managed to bring together a team of researchers from different backgrounds. With the assistance of the Council of Europe, this collective approach has helped to compare notes, make surprising new comparisons and address new questions. The result of this research is set out in this volume. It helps improve our knowledge of the Second World War, of homosexual men and women and of private life. We are confident that these new pages of the history of Europe are a promise of more to come.

## Chapter 1

# Queer life in Europe during the Second World War

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*Régis Schlagdenhauffen*

**F**ollowing on from the Roaring Twenties, and despite the economic crisis, the 1930s began with a relatively carefree attitude towards homosexuals in Europe. Nearly every town had music halls, dance halls, bars and discreet cafés that were also meeting places for men who liked men and women who liked women. Across the continent, thanks to advances in transportation, homosexual tourism continued to increase from the Mediterranean to the Baltic, via the Atlantic and the North Sea. Lesbianism was not to be outdone, and the year 1931 was marked by the huge success of *Mädchen in uniform* (Girls in uniform), the first commercial lesbian film in the history of cinema, directed by Léontine Sagan. More generally, times were changing, especially sexually. The World League for Sexual Reform, founded in 1928 by a sexologist from Berlin, Magnus Hirschfeld, sought to have a progressive influence on the governments of European nations. The league demanded that they have “a rational attitude towards sexually abnormal persons and especially towards homosexuals, men and women” (Tamagne 2005). However, the ideas conveyed by the reformists were soon jeopardised by the rise to power of extremist parties that announced the advent of totalitarian regimes in Europe.

The wind changed in several countries from 1933. Sexuality, particularly homosexuality, was again a focus of debate (Domeier 2015; Praetorius 1909; Schlagdenhauffen 2015). As had been the case on the brink of the First World War, homosexual scandals broke out and were used for political gain. In France, the Dufrenne Affair, from the name of a theatre director found dead in 1933 and whose killer was suspected of being a male lover (Tamagne 2006a), illustrates the shift that occurred during this period: the homosexual, associated with feminine traits, embodied the nation's decline. The “inverts”, as they were called, symbolised treason and justified the urgent need for a moral turnaround. In Germany, the young Marinus van der Lubbe, who was allegedly homosexual and an anarchist communist, was accused of setting fire to the Reichstag in February 1933. He was sentenced to death for high treason. On 6 May, it was the turn of the Institute of Sexology, founded by Magnus Hirschfeld in 1919 in Berlin, to be destroyed by the Nazis as part of the operation against “non-German” thinking (Schlagdenhauffen 2005: 155-7). The following summer, Ernst Röhm, the openly homosexual chief of staff of the Sturmabteilung (SA), was assassinated during the Night of the Long Knives (June 1934). Immediately afterwards, roundups and arrests of homosexuals multiplied across the whole of Germany. More repressive legislation followed with, in June 1935, an increase in the severity of paragraph 175 of the German Criminal Code, whereby all types of homosexual



relationships between men were punishable by sending the perpetrators to concentration or re-education camps, effective immediately. In the Soviet Union, the crime of sodomy, abolished in 1917, was reintroduced in 1934, making homosexuality punishable by five years in a forced labour camp (Gulag). In Italy, the chief destination of exiled German and Austrian homosexuals, Mussolini also authorised in 1938 the arrest of homosexuals and their imprisonment on the Isole Tremiti in the Adriatic Sea.

During the interwar period the condemnation of homosexuality was predominantly focused on men. Ways of expressing disapproval of female homosexuality were more subtle and less common, especially as a result of the gender hierarchy, whereby it was deemed that women, if they were lesbians, would cause less harm to the nation and to patriarchy.

Up to now, the period of the Second World War has constituted a parenthesis in research into homosexuality. The late 1930s and the early 1950s are two chronological milestones separating, on the one hand, an initial homosexual movement born in 1897 (Lauritsen and Thorstad 1974), which reached its peak in Germany in the interwar period, and, on the other hand, a homophile movement born in the post-war period in several European countries, which entered into a decline from the 1970s (Bech 1994; Hekma 2004; Jackson 2009). The scarcity of information sources on sexuality, particularly homosexuality during the Second World War, partly explains this lack of research into homosexuality and homosexuals during this era, with the exception perhaps of the work done concerning homosexuals in Nazi concentration camps (Mußmann 2000).

## **Socio-sexual context during the Second World War**

Between 1939 and 1945, millions of Europeans were drawn to having pre-marital and extra-marital sexual encounters, shifting their own moral boundaries and experiencing relationships that would have been quite simply impossible and unimaginable in times of peace (Herzog 2011: 98). Some historians claim that the Second World War, more so than the First World War, created new erotic situations that facilitated homosexual practices and encouraged the development of gay and lesbian identities after the war (D'Emilio 1990).

Firstly, the social and cultural context in question was characterised by the increased repression of homosexuals in several European countries, starting with Germany and the territories that it gradually annexed, while an attitude of detachment towards homosexuality prevailed in the occupied territories both in the west and the east. Secondly, the types of sexual engagement and encounters that the Second World War engendered were often described after the fact, using terms such as “circumstantial” or “situational”. Presented in this way, homosexual experiences became comprehensible and excusable and were regarded as a stopgap for the out-of-reach heterosexual relationship. The aim of this book is to go beyond such preconceived ideas and to show that, between 1939 and 1945, the issue went beyond that of identities and sexual experiences, because it became a political issue. In parallel with the subjective experiences of homosexual affairs and relationships, some European

states picked up on the homosexual question, criminalising or decriminalising it; they initiated policies that would continue into the post-war period and allow us to understand, in the end, why our continent is today a forerunner in the fight against homophobia and discrimination.

By opening up debate on a different history, one that was indeed marked by repression but also by enlistment in armies at war, collaboration and resistance in underground networks, the aim of this work is to explore these different situations while taking into consideration the temporalities of the conflict and national specificities. By jointly addressing these aspects, we are able to shed more light on the question of homosexuality in time of war and at a European level. In the first part of this book, the contributions will discuss the types of repression used against homosexuals, firstly in Germany, then in Austria, where lesbianism was suppressed to an extent incomparable with what happened elsewhere in Europe. In the second part, the authors evoke the situations prevailing in areas annexed during the war, in order to show how territories attached to the Third Reich were brought to heel. A study of the dismantlement of Czechoslovakia from 1940 on will make it possible to understand how several types of controls over sexuality were put in place. The example of the annexation of Alsace-Moselle will demonstrate how the integration of these regions into the Reich went hand in hand with the gradual exclusion of homosexuals from Alsace and Moselle. In the third part, the main focus will be homosexuality under an authoritarian regime: whether Hungary under Horthy, Italy under Mussolini or the Soviet Union under Stalin, these three examples will make it possible to understand how the temporalities of the war affected a group of individuals whose ostracism was conceived as a political tool. In the last section, this book will discuss on the one hand the situation in Sweden to understand how decriminalising homosexuality at the end of the Second World War was the first sign of the reforms that would affect all of Europe during the second half of the 20th century. On the other hand, it will discuss the situation in Yugoslavia: more precisely, how the anti-fascist movement dealt with homosexuality.

To write such a history at a European level, it is moreover necessary to put this issue back into the context of European historiography of the Second World War, which has paid scant attention to homosexuals because, after the war, few people were interested in them.

From the 1970s, the development of social movements for the liberation of women, gays and lesbians on both sides of the Atlantic, and the greater attention paid to victims of persecution, created a twofold dynamic. On the one hand, young people engaged in gay and lesbian emancipation movements sought to rebalance the writing of a history from which they felt excluded; on the other hand, activists searched for homosexual survivors and veterans from the Second World War with the aim of eliciting their testimony and consequently contributing to nourishing a collective memory. This dual movement was part of two broader dynamics that were “the era of the witness” and “competition between victims” (Wieviorka 1998; Chaumont 2002). Then, during the 1980s, at the same time as the emergence of the HIV/AIDS epidemic, people following the example of Guy Hocquenghem went on to assert

that homosexuals had been victims of a genocide, of a “gay holocaust”<sup>2</sup> during the Second World War. University research and non-university research carried out from the 1980s on was focused above all on the fate of homosexuals in Nazi concentration camps. It showed that a systematic persecution did not take place on a European level (Tamagne 2006b). The research in question, quite often conducted locally, was primarily motivated by the desire of gay and lesbian organisations to show associations of former deportees that homosexuals had also been victims of the Nazi regime and, as such, they deserved to benefit from symbolic recognition in official commemorations. The historiography of homosexuals during the Second World War therefore has a political dimension, in that it constitutes a dynamic process permitting a social group that had long been kept silent to speak out and become visible. More generally, it is part of the history of homosexualities, which lies at the intersection of the history of sexualities and the history of genders, in that it concerns both the masculine, the feminine and the intrinsic hierarchies of each gender.

### **European homosexuals during the war**

During the war, neutral Switzerland was seen as a beacon in the darkness. Le Cercle, an organisation based in Zurich and founded in 1932, was the only homosexual association to remain active. Its eponymous newspaper played a key role because it allowed homosexual people from all backgrounds to stay connected during the conflict (Kennedy 2013). However, homosexual organisations and associations formed only the most visible part of European homosexual subcultures. Many homosexual men and women, sometimes as couples, sometimes single, were able to continue leading a safe and discreet life during the war. They were simply subjected to the same restrictions as the rest of the population and, for the most part, there is little trace of them in the archives. Nevertheless, the temporalities of the war transformed means of movement between urban and rural zones, just as they affected the hierarchies between urban areas. At times, homosexuals found themselves confined to areas, leaving few possibilities for movement. The fact that it became impossible to “go into town”, a traditional place for more or less anonymous sexual encounters, forced a number of them to express their desires in ways that they would not have considered during times of peace. However, the archives contain only scant information on informal homosexual sociability. It is also a challenge to uncover this information, since it involves gathering coherent sources on a population that is, above all, defined by its sexual practices, whether criminalised or not, and perceived differently according to the locations concerned. Sometimes it is necessary to resort to verbal sources and personal documents, such as diaries. The diary belonging to the bisexual lawyer Eugène Wilhelm (1866-1951), for instance, reveals the transformation of sexual practices and fantasies during the Second World War. After withdrawing to the countryside following the evacuation of the French border zones, he described in these words the encounters he had with one of his young lovers:

Thursday 7 September 1939, I made love to Jean in the bushes. (Wilhelm 1939a)<sup>3</sup>

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2. See the preface written by Guy Hocquenghem in Heger (2005).

3. *Journal intime d'Eugène Wilhelm*, Book No. 41, 7 September 1939, f° 110/145.

Tuesday 19-Thursday 21 December 1939: Back to full health ... Made love to Jean in the forest." (Wilhelm 1939b)<sup>4</sup>

More generally, the small amount of research carried out on homosexuality in rural areas has shown that gays and lesbians actually had a large choice of meeting places, sometimes semi-public, sometimes private, making it possible for them to have sex.<sup>5</sup> British historian Emma Vickers (2011) has gathered many oral testimonies from British gay and lesbian veterans who, during the Second World War, had sexual encounters behind the front lines or on trains. Other testimonies attest to traumatic experiences on trains, especially when a homosexual identity was synonymous with disgrace. Heinz Heger, known as one of the first deported homosexuals to have testified in the 1970s, states in his memoirs that he was raped on a train that was taking him to a concentration camp (Heger 2005).

Homosexual behaviour did not only occur in the countryside and on public transport during the war. In many towns, public toilets and walkways maintained their social function as meeting places. In Prague, galleries, public baths and cafés welcomed the same clientele, putting aside the war and its unpleasant consequences. However, the war entailed several changes with regard to how homosexual communities functioned. In Czechoslovakia, the establishment of the Protectorate (16 March 1939) led to the dissolution of the army. Soldiers who were used to prostituting themselves in uniform were quickly replaced by young men enticed by the money involved. Very often forced into prostitution for economic reasons, they often turned out to be skilled blackmailers. As shown in Jan Seidl's contribution to this book, this led the police to focus their attention on male prostitution networks, which they were seeking to dismantle, rather than on homosexuals. In Italy too, the occupation of the south by Anglo-American troops from 1943, combined with the growing destitution of the local population, encouraged the development of a new type of prostitution, which turned Naples into a "big brothel" (Le Gac 2015) or even, if one is to believe the Italian writer Curzio Malaparte, the new European capital of homosexuality (Malaparte 2000). Lastly, in the Soviet Union, the practice of homosexuality was unimpeded, albeit discreet. Nevertheless, throughout our war-stricken continent, to engage in a homosexual relationship was rarely without risk.

## **Homosexuals and the law**

Wartime can be a period conducive to legislative changes, particularly with regard to moral standards. Three distinct positions can be noted: the states that maintained the status quo regarding homosexuals, those that strengthened their legislative arsenal and, lastly, those that relaxed it.

As shown in the contributions by Arthur Clech, Johann K. Kirchknopf and Régis Schlagdenhauffen, Germany, Austria, Romania and the Soviet Union retained existing legal provisions. In fact these states had tightened their criminal codes before the

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4. *Journal intime d'Eugène Wilhelm*, Book No. 42, 19-21 December 1939, f°41-43/71.

5. Howard J. (1999), *Men like that: a southern queer history*, University of Chicago Press, Chicago, cited by Vickers (2010: 65).

war. The USSR had recriminalised homosexuality in 1934, Germany had increased the severity of paragraph 175 in 1935 and Romania had introduced the concept of acts of sexual inversion when reforming its Criminal Code in 1937.<sup>6</sup> Nevertheless, it would be inaccurate to say that nothing changed with the advent of war. In Germany, on 12 July 1940, a Nazi decree ordered the immediate internment in concentration camps of all men who had been found guilty of homosexual seduction. Then, in 1942, Hermann Göring decreed that a number of homosexuals be “put to the test” after serving their sentences. This measure ultimately led to homosexuals being enlisted in the Wehrmacht at a key moment in the conflict. Following the Anschluss, Germany required Austria to amend its interpretation of the Criminal Code to bring it into line with paragraph 175.

France was one of the countries that, on its own initiative, reinforced its legislation during the war. While homosexuality had no longer been punished since the French Revolution, Marshal Pétain approved, on 6 August 1942, a law introducing the concept of an “unnatural” act into French law. This change illustrates the moral crusade led by the Vichy regime, which had set out to regenerate the nation (Jackson 2009: 45). Admittedly, the law only sanctioned homosexual relationships between an adult and a minor over 15 years old, but it nevertheless led to the prosecution of victimless offences.

In the annexed Alsace-Moselle regions, German law was introduced from January 1942. Soon after, the number of arrests escalated and the judgments handed down show that the courts took a hard legal stance with regard to homosexuals from Alsace and Moselle. Nazi justice also adopted the principle of the retroactive application of the law. In concrete terms, this meant that men could be sentenced for acts committed at a time when homosexuality was not an offence. In a case tried in mid-1944 in Strasbourg, the court referred explicitly to the principle of retroactivity applicable in Alsace so as to be able to flesh out the evidence against a defendant prosecuted for “unnatural relations with men”, because he was accused of having caressed the leg of a soldier. Following his arrest, and during the interview, he admitted to having already masturbated with another man, two or three times at most, before the war. This made it possible for the court to consider him as a repeat offender. He was sentenced to six months in prison (Schlagdenhauffen 2014: 100).

The law was also applied retroactively in the Sudetenland, a region annexed by Germany since 1938.<sup>7</sup> This provision enabled the arrest of 210 homosexuals in 1941, 112 in 1942 and 48 in the first half of 1943.

In situations of occupation, the occupying power could amend the provisions in force, along the same lines as what had happened in Austria following the Anschluss. The occupation of the Netherlands led to the overlap of two sets of rules. In addition to the Article 248bis, of the Dutch Criminal Code which specifically condemned

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6. Article 437 of the new Romanian Penal Code introduced the concept of “sexual inversion acts” between men and between women, punishing them with sentences ranging from six months to two years if they created a public scandal. See Carstocea (2006).

7. Tamagne (2006b: 558) describes the case of Dr Anton Purkl, who was retrospectively convicted for acts committed before the annexation.

homosexual relations between adults and minors over 15, the Order No. 81/40 was promulgated by the occupying army on 31 July 1940. It made male homosexual relations punishable by a five-year prison sentence. From a formal standpoint, this order was nothing other than an exact copy of the German paragraph 175. However, since the Dutch police were not very co-operative, few charges were brought. Between 1940 and 1943, 138 men were brought before the courts pursuant to Order No. 81/40: 90 were sentenced, including 54 who were given a prison sentence and 10 who were committed to psychiatric hospitals. At the same time, 164 men appeared before the courts for violation of Article 248bis.

In Hungary, the government of Miklós Horthy adopted another type of treatment for homosexuals. Archives investigated by Judit Takács show that the Hungarian security services drew up lists of homosexuals, and 992 of them were considered fit for forced labour, in the same way as the Jews and political dissidents.

In Poland, a country that had decriminalised homosexuality in 1932, the traces of just a single case during the occupation have been found, attesting to the lack of German interest in the repression of homosexuals outside of the Reich. A Polish man who maintained a relationship with a German soldier was arrested in 1942. He was sentenced by the court of Toruń, managed by the occupying forces, to five years' imprisonment for violating paragraph 175.

Poland was not the only country to have decriminalised homosexuality before the war, since Denmark had done the same in 1933. This situation differs from that of countries that decriminalised homosexuality during the war. Iceland was the first of these in 1940, followed by Switzerland in 1942. In Switzerland, the German-speaking cantons had, until then, tended to punish homosexuality following the principle of paragraph 175, whereas the French and Italian-speaking cantons mainly drew on French or Italian law, which did not punish homosexuality. However, the decriminalisation in 1942 did not apply to the Swiss armed forces, due to the fear of the potential impact of homosexuality on troop morale (Delessert 2012). The last European country to decriminalise during the Second World War was Sweden in 1944. As Jens Rydström points out in the chapter devoted to this country, the argument put forward by reformers was the need to restrict opportunities for blackmailers who preferred to target homosexuals.

With regard to the risks run by those arrested for homosexuality, the majority of countries imposed prison sentences or internment in forced labour camps. Historical research carried out on the Gulag and concentration camps has shown that closed institutions of this type encouraged the development of a subculture, inspired partly by the prison subculture and very hostile towards homosexuals. To a certain extent, the subculture concerned was reflected in camp jargon, in which every term used was part of a hierarchical system classifying the individuals concerned. In Russia, the terms *pidory* (passive homosexual), *kobly* (a woman playing the role of a man) and *kovriyalki* (a woman who plays the role of the woman), used in the Gulag, contributed to the formation of a gender hierarchy (Kunstman 2009).

In Nazi concentration camps, a visible pink triangle was the "homosexual" badge, which was a symbol that allowed homosexual men to be distinguished from other

prisoners. Introduced in 1937, it was only used for prisoners of the Reich.<sup>8</sup> The number of those who wore it in the camps never exceeded 1% of a camp's total population. Despite their small number, homosexuals were seen as repellent individuals. One of the rare options for homosexuals to escape their deadly situation was to be integrated into the Wehrmacht. This last point leads on to the question of homosexual participation in the war.

## **Homosexuals serving in the armed forces during the war**

Following the Swiss example, many armies considered homosexuality strictly incompatible with rough soldierly manners (Rosario 2002). Under British Army instructions this was a clear reason for exclusion (Jackson 2010). The majority of homosexuals serving in the armed forces were aware of this and chose to hide their sexual orientation. At the same time, this explains why the cases of homosexuality to be found in public archives mostly concerned circumstantial or compensatory homosexuality (Delessert 2012: 80 ff.).

According to Vickers (2011), homosexuals kept a particularly "low profile" in the army and this is why few veterans are able to confirm that they encountered homosexuals during the war. However, many of them joined up, either through conscription or voluntarily. Vickers cites Peter Tatchell as claiming that around 250 000 gays served in the British armed forces (2011: 115). This number contrasts with the 790 cases of "indecent" brought before the British Court Martial between 1939 and 1945.<sup>9</sup> According to Vickers (2011), the low number of cases reported was linked to the camouflage strategies deployed by homosexuals. However, going undercover did not mean that their sexual orientation would not eventually be discovered. The Croatian historian Franko Dota (2012: 22) has researched the case of the Partisan Josip Mardešić. As a Captain in the Yugoslavian National Liberation Army, he was charged with homosexuality and brought before the Supreme Court in March 1944, whereupon he was sentenced to death and executed.<sup>10</sup> According to Dota, the charges – seduction of subordinates, unnatural sexual relationships with persons under his authority, corruption of young persons causing irreparable damage to their normal development – demonstrate the puritan stance taken by Yugoslavia towards homosexuality, considered to represent a danger to both the nation and the army.

The emphasis on aggressively heterosexual masculinity in the military did not necessarily mean that homosexuals were not enlisted. Nazi Germany is a textbook case. Until 1943, cases of homosexuality in the Wehrmacht were systematically punished but did not lead to the exclusion of homosexuals; they were incorporated into penal

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8. Testimonies state that lesbians had to wear black "asocial" triangles, since the legal provision that sanctioned "unnatural relations" applied only to men in Germany. See Schlagdenhauffen (2011).

9. Section 11 of the Criminal Law Amendment Act 1885, Labouchere Amendment, in The War Office (1950).

10. Sentence of J. Mardesic, Military Archive of Serbia, box 110A, f°5, doc. 1, cited by Dota (2012: 22).

battalions.<sup>11</sup> According to the historian Hans-Peter Klausch (1993: 24), this strategy was aimed at bringing these men back onto the right path, that of heterosexuality, because expelling them from the army would have sent a strong signal to all those who were trying to evade their military obligations (ibid.: 24).<sup>12</sup> For this reason, the Wehrmacht preferred to retrain homosexuals rather than exclude them. Franz Seidler (1977: 201) adds that “even emasculated men were still fit for military service, as long as they were worthy of serving (*Wehrwürdig*). It was not desirable to dispense emasculated men from their military obligations”. From 1944, when Germany was experiencing huge and growing losses on the eastern front, it was decided to resort to the forced incorporation of homosexuals interned in concentration camps, as Schlagdenhauffen describes in his contribution. A number of testimonies show that this political strategy was seen as a last hope. The historian Rainer Hoffschildt (1992: 130-3) has retraced the career of Heinz F., one of the last homosexuals to have been forced into the army. On 1 May 1945, eight days before the capitulation of Nazi Germany, he joined the Wehrmacht under duress.<sup>13</sup>

What about the homosexuals engaged in clandestine forms of combat and in the resistance movements that developed in several European countries? The research remains incomplete on this sensitive issue that, according to Gilles Perrault (2014), is a “taboo within the taboo”.

In France, several homosexual men and woman were engaged in resistance networks from the outset, including Pascal Copeau (who was one of the founders of the National Council of the Resistance) and the lesbian artist Claude Cahun, who actively participated, with her partner, in resistance movements on the island of Jersey until she was arrested by the Gestapo in 1944.

Seidl has also discovered evidence of Czech homosexuals who participated in resistance networks. A network was established around a priest, Otakar Zadražil (1900-45), from the Augustinian Monastery in Brno. Women also set up a network in Prague by establishing a network in which all of the members (men and women) were homosexual. Vague sources attest to the fact that this group was arrested and deported as political prisoners (Seidl et al. 2014: 263-4).

In addition, in the concentration camps homosexuals played a key role in the internal resistance networks. As Tamagne (2006c) points out, Robert Oelbermann, one of the leaders of the youth movements prohibited by the Nazis, was accused of an offence under paragraph 175 and sentenced in September 1936 to 21 months of forced labour. He was then transferred to Sachsenhausen concentration camp:

With Rudi Pallas, a former scoutmaster (*Pfadfinder*), he organised a resistance group that was able to unite deported homosexuals and politicians in Sachsenhausen. Rudi Pallas,

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11. In 1936, homosexuals represented 11.5% of the 500th Disciplinary Battalion's recruits. Between 1942 and 1943 homosexuals represented no more than 3% of the troops, and 2% between 1944 and 1945. This can be explained by the widening of the channels for recruiting men assigned to the battalion (including those accused of offences inherent in a state of war, black marketeering, theft, etc.).

12. (No. 63), Bundesarchiv-Militärarchiv Freiburg (BA-MA) H20/474.

13. This career has been pieced together again thanks to research by Hoffschildt. Heinz F. gives his account in the documentary *Paragraph 175* by Rob Epstein and Jeffrey Friedman (1999).



who was released in May 1940 and forced to serve as a medical officer on the Eastern front before being captured by the Russians, continued his resistance activities in prison. After the war, he was one of the few deported homosexuals to receive the title “victim of war” in light of his political engagements. (ibid.)<sup>14</sup>

A history of sexuality, and therefore of homosexuality, in the resistance still needs to be written. That would shed new light on the issue of homosexuals who collaborated, a subject that generally arouses considerable interest (Anglebert 2015). Certain of these collaborators are known, such as the far-right writer and journalist Robert Brasillach (Kaplan 2001) or even Abel Bonnard, member of the French Academy and Minister of Education under Vichy, who was nicknamed “Gestapette”. Hiding in Spain at the end of the war, he was found guilty of collaboration, sentenced to death *in absentia* and expelled from the French Academy.

### **Homosexuals after the war**

The immediate post-war period was initially marked by the reconstruction of a Europe left devastated and grieving and then divided by the Cold War. This period, which saw stable institutions established on the continent with a view to a lasting peace – starting with the Council of Europe in 1949 in Strasbourg – was not necessarily more favourable for homosexuals. In a majority of countries, the legislation in force during the war was retained (Judt 2005). In Germany, paragraph 175 remained in place, leading to the conviction of more than 50 000 homosexuals between 1949 and 1969. In the United Kingdom, the police were particularly active in repressing homosexual relationships between men at the end of the 1940s and during the 1950s (Bauer et al. 2012). However, the repression of homosexuals after the war did not take place solely in the aforementioned countries, since the same observation has been made concerning other nations with a reputation for greater tolerance, such as the Netherlands, Denmark, Norway and Finland (Rydström and Mustola 2007; Koenders 1986).

At the same time, there was an increased interest in the psychiatrisation of homosexuality and homosexuals, particularly thanks to the development of electroconvulsive therapy. To paraphrase Delessert, psychiatric facilities replaced criminal justice and the “criminals” were transformed into mental patients (2012). The cases considered by doctors to be the most serious were also subject – as in the United Kingdom – to “voluntary castration”, which was only voluntary in name. This finding is not confined to western Europe; in eastern Europe, particularly in the USSR, homosexuals underwent psychiatric assessment. Based on his ongoing research, Clech writes that, in the Soviet Union, half of the lesbian women whom he interviewed claimed that at least one of their partners or acquaintances was sent to an asylum after 1945. Psychiatric hospitals were therefore assigned a preventive function, but also one of re-education, which was hardly different from the function previously carried out by detention centres.

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14. See Sternweiler A. (2000), “Homosexuelle aus der Jugendbewegung”, in Müller J. and Sternweiler A. (eds), *Homosexuelle Männer im KZ Sachsenhausen*, Schwules Museum Berlin, Verlag rosa Winkel, Berlin, cited by Tamagne (2006c).

All in all, the post-war years in Europe were marked by a fresh outbreak of police repression, and social and medical stigmatisation of homosexuals. The liberation of homosexuals would only take place from 1969 onwards thanks to the gradual appearance of a gay and lesbian movement, then the lesbian, gay, bisexual and transgender (LGBT) movement.

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## Chapter 2

# Punishing homosexual men and women under the Third Reich

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*Régis Schlagdenhauffen*

Information on the persecution of homosexuals by the Nazis during the Second World War remains extremely sketchy. The Nazis themselves destroyed a large number of archives at the end of the war, including those of the Reich Central Office for the Combating of Homosexuality and Abortion. Furthermore, very few of those homosexual men and women who survived the Second World War without being arrested ever recounted their experiences. The reason is simple: the articles of law in force until 1945 were included in the two criminal codes of East and West Germany. As a result, the historical data we do have mainly concern men and women who left traces in the archives of the police, the justice system or the concentration camps. A vast majority of this related to men, as paragraph 175 of the German Criminal Code only punished male homosexuality.

The figures generally given for homosexual victims of Nazism are to be taken with caution. According to current research it would appear that at least 100 000 men passed through the Nazi criminal justice system. Half of them were sentenced to imprisonment. Between 5 000 and 10 000 were sent to concentration camps because of their homosexuality, making the men with the pink triangles the archetype of the persecution of homosexuals by the Nazis.

In order to picture the forms of punishment involved we first need to understand how it was possible to introduce a policy of persecution in wartime. This means looking back to when the Nazis first came to power, in 1933. The condemnation of homosexuals was a gradual process implemented by decrees and laws, thanks to the efficiency of the police and the Gestapo but also with the help of the people, some of whom were all too ready to report homosexual men and women. When war broke out the means used to persecute homosexuals changed, with the introduction, for example, of a preventive programme to discourage repeat offending. One of the consequences, from July 1940 onwards, was that men who had served prison sentences for homosexuality were then sent to concentration camps. Both in prison and in the camps homosexuals had to face the homophobia of the other inmates and more generally of the Nazi penal institutions. The different facets of this system were successively explored in the Ravensbrück concentration camp then in the Sachsenhausen camp for men, a model camp just outside Berlin. The homosexuals there were assigned to the worst types of hard labour, in the penal units. They were confined to a special block so as not to “contaminate” the other detainees.

Almost all the homosexuals in the model camp of Sachsenhausen were exterminated in 1942. Only those who managed to secure a supervisory job might have been lucky enough to survive, or those who from 1943 onwards agreed to join the disciplinary battalions of the Wehrmacht, fighting a losing battle on the eastern front. When the war ended the situation of the homosexuals who had survived imprisonment and the concentration camps remained precarious in Germany: they were denied deportee status because they had been criminally convicted. They were even likely to be convicted again, right up until 1968 in East Germany and 1969 in West Germany.

## **The banishment of homosexuals, 1933-40**

Until the Nazis took over power numerous homosexual organisations and associations, both male and female, existed in Germany. In fact Berlin was considered the homosexual capital of Europe, in spite of the existence of paragraph 175, which was sparingly applied prior to 1935. Since 1919 at least, the idea of repealing that law had regularly been in the offing. Dr Magnus Hirschfeld, who was behind several petitions against paragraph 175, was the uncontested champion of the fight for the rights of homosexual men and women.

It all happened very suddenly – a few weeks after Adolf Hitler came to power on 30 January 1933, and under the driving force of SS Reichsführer Heinrich Himmler – the Nazis clamped down on the flourishing culture of homosexuality in Germany. From that moment on, those homosexuals who had relations abroad, the means to leave and perhaps the fewest ties in Germany, fled the country. Until June 1934, however, many homosexuals found it hard to believe that the regime could really be homophobic, in so far as Ernst Röhm, Commander-in-Chief of the Nazi storm troopers, the SA, was himself a homosexual. From at least 1927 onwards, however, the Nazi Party had never concealed its overt hostility towards homosexuals, pointing out that:

We [the party] are of the contrary opinion, that these people of the paragraph 175, i.e. unnatural sex acts between men, must be fought with all our might, because such a vice must lead the German people to ruin. Naturally it is the Jews again, Magnus Hirschfeld and those of his race, who, here again, act as guides and as initiators, at a moment when all of Jewish morality is indeed devastating the German people. (Tamagne 2000: 444-5)<sup>15</sup>

A few weeks after Röhm's assassination, the wind turned: the Gestapo, under the direction of Göring and Himmler, sent on 24 October 1934 a telegram to every police station in the Reich ordering them to send to Berlin all files on men known for their homosexual practices.<sup>16</sup> At the same time raids were carried out on bars known to be meeting places for homosexuals. One such raid, carried out on 9 March 1935, was described as follows:

On 9 March 1935 the SS provided me with a team of 20 men in reinforcement of the Gestapo agents to conduct a raid on homosexuals. The *kommando*, composed of two

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15. Excerpt from a speech by Dr Frick, NSDAP, 15 September 1927.

16. According to research done by Pretzel and Roßbach (2000), in Berlin alone nearly 100 000 men were registered as suspected homosexuals.

lorries, left the base at 9.15 p.m. and arrived at the Kanthak police station at 10 p.m. In addition to our *kommando*, a team of 10-12 *Gestapo* agents was to take part in the raid. ... At 10.45 p.m. we left the *Gestapo* and drove in several vans to the Weinmeister Klausé cafe in Weinmeisterstr (Berlin Mitte), which was reputed to have numerous clients of a homosexual temperament. As agreed, two men were posted at each entrance to the bar. Their orders were to let anybody in, but to let nobody leave. Then eight men locked the bar down. ... All the men Commissioner K. considered as suspects were bundled into the vans and transferred to *Gestapo* headquarters by our men. ... On 10 March 1935 the first batch of guilty individuals were transferred under my command and under the supervision of eight SS officers to the Berlin Columbia-Haus [Kreuzberg/Tempelhof] concentration camp. (Isherwood 1934)

On 28 June 1935, a few weeks before the adoption of the Nuremberg Laws, paragraph 175 was strengthened. From then on any homosexual act or intention would be punishable, no longer just sexual relations of a coital nature. According to the law, "this measure [was] necessary in the interest of the community of the people to prevent homosexuality from spreading further" (Stümke and Finkler 1981: 212).<sup>17</sup> The number of people charged under paragraph 175 soared: 1 069 convictions in 1934, 2 362 in 1935, 9 538 in 1938 (Micheler, Müller and Pretzel 2002: 8). At the end of June 1935, of the 1 170 men held in "preventive detention" at the Lichtenburg concentration camp to the south of Berlin, 413 were homosexuals. One of them reported that:

these prisoners were men who ended up there because of their homosexual predisposition, real or imagined. None of them was ever brought before a judge! ... A few hundred were released from Lichtenburg. Part of their soul and their body was broken. Some of them, although they were young, came out of there with grey hair, while others still suffered from persecution complex. They wandered round like mad men ... Most of them have lost their jobs, even though they have done nothing wrong ... As you read these lines their suffering continues, hundreds of men are enduring the worst torments. (Grau 2004: 85)

From mid-1935, as it was no longer just sexual relations with penetration that were punishable but any act of a homosexual nature, the police, like the *Gestapo* and then the justice system, enjoyed considerable leeway in their definition of homosexual practices. In 1936 the persecution of homosexuals intensified thanks to the creation, ordered by Himmler, of the Reich Central Office for the Combating of Homosexuality and Abortion. By 1940 it had collected over 41 000 nominative files on homosexuals from all over the country.<sup>18</sup> In the early days of the war the situation of homosexuals grew even worse. The decree of 12 July 1940, issued by Himmler to prevent crime, provided for men who had served prison sentences for homosexuality to be sent to concentration camps. They were to be immediately transferred to a concentration camp as soon as they were released, in order to prevent them from committing new offences.

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17. Schäfer L. and Lehmann R. (1935), *Die Novellen zum Strafrecht und Strafverfahren*, Berlin, cited in Stümke and Finkler (1981: 212).

18. There are very few references from this institution, almost all of its archives having been destroyed. See Jörg Hutter (1996).



Until the start of the war those homosexuals who wished to steer clear of the police and the Gestapo tried to emigrate. When it was possible, homosexuals with ties to communist, socialist or anti-fascist groups chose to go on fighting from abroad. To do this, they had to emigrate illegally, sometimes fleeing the country in perilous conditions (Stümke and Finkler 1981). Richard Plant reports in his memoirs that several acquaintances of his emigrated to France, but after 1939 they were arrested and imprisoned because they were German (Sternweiler 1996).<sup>19</sup> With the onset of war opportunities to go into exile grew even more scarce. Switzerland or Sweden were among the destinations that were still possible. The few homosexuals who did manage to escape took with them jewellery, cameras or anything else they might be able to sell when they reached their destination. For others, marriage was one way of avoiding attracting suspicion from neighbours or the Gestapo. Lastly, the vast majority kept a low profile to escape persecution in its various forms.

Under the Nazi regime homosexuals could be investigated and arrested for any number of reasons. According to the judicial archives, it is safe to say that denunciations were responsible for 35% of all arrests of homosexuals, while police raids only accounted for 10% (Micheler, Müller and Pretzel 2002: 15). Another technique employed by the police, known as the “snowball” principle, was also effective. It was based on the principle that arresting one homosexual made it possible to arrest the people he socialised with as sex partners or friends, and accounted for a good third of all the arrests made (ibid.).

When they made the arrest the police told the family and the employer the reason for the arrest: homosexuality. They then carried out an investigation and searched the suspect’s home. Letters, photographs and personal effects were carefully examined and placed in the case file to help apprehend any other homosexuals the accused might be in contact with. In some cases this provided proof that it was not the suspect’s first offence. That is to say that in the eyes of the authorities the man had had other homosexual relationships. Each individual homosexual act was considered a crime in its own right (Buschmann 2000).

In order to understand the consequences the war had on the lives of homosexuals in Germany, we shall explain the situation of lesbians in the face of the repression of homosexuality. Then we shall look at the fate of homosexual men in the concentration camps. Lastly, we shall show the persistence of the repression of homosexuality in the two Germanys after the war. It should be remembered that the story, in so far as it is possible to write it, concerns first and foremost those men and women who left traces in the archives, which excludes the majority of homosexuals who came through the war without being persecuted and in respect of whom only a few biographies have survived.<sup>20</sup>

## **Repression and internment in the Nazi camps**

Research reveals an overrepresentation of young working-class men among those who were persecuted. They were the main victims of the system. Several explanations have been put forward by historian Carola von Bülow (1999: 62-9). According to her,

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19. On the camps in France, see Peschanski (2002).

20. Including the biographies published on Richard Plant and Adolf Isermeyer by Sternweiler (1996, 1998), and the documentary *Paragraph 175*.

the younger men had less experience and so were less able to conceal their sexual preferences. This made them easy prey for the police. Research also reveals a preponderance of men from working and middle-class backgrounds. According to John Fout (2000) it is even possible to assert that 90% of those who were arrested, imprisoned and sent to camps were working class. The remaining 10% from the upper end of the social scale were arrested under sub-paragraph 175a of the Criminal Code, for having had sex with partners over 15 years of age. As a result, the history of homosexuals under the Third Reich is primarily that of working-class men, those least able to defend themselves in the face of Nazi repression and the least well equipped to tell the story of their suffering.

In the period 1940-45 the proportion of homosexuals in the concentration camps was scarcely more than 1% of all detainees (ibid: 332). There were a few hundred of them, perhaps, as opposed to thousands or even tens of thousands of common criminals or political detainees.<sup>21</sup> Sociologist Rüdiger Lautmann has found that of all the men held in a concentration camp for homosexuality, 50% had been sent there from a police station, 12% by the Gestapo and 33% from a prison (1977: 364). The preponderance of detainees sent to the camps by the police shows the central role the police played in applying an arrest policy based, as we saw earlier, on denunciations, raids and betrayals extracted under duress.

Compared with the other categories of detainees, homosexuals had fewer outside resources. Other factors also affected them, such as the stigmatisation of homosexuality (Fraser and Honneth 2005: 24), a sentiment that was exacerbated in the concentration camps. What is more, they were systematically assigned to the toughest penal units (*kommandos*), which significantly increased their mortality rate. Stone or gravel quarries (*Kiesgrube*), clay quarries (*Tongrube*) brickworks (*Klinkerwerk*) or even bomb disposal units were known to be the most deadly, and these were the tasks homosexuals were assigned to.

These few elements give a better idea why the mortality rate among homosexuals was particularly high in the concentration camps: up to 60% according to Lautmann's calculations (1977: 337). The mortality rate varied from one camp to another, however, and from one period in time to another (Mußmann 2000: 94-104; Hoffschildt 1999). Ravensbrück was the only camp in Germany that housed lesbian detainees. A large number of camps (including Ravensbrück) took in homosexual men. To provide a clearer picture of their situation we shall focus mainly on the best-documented camp, Oranienburg-Sachsenhausen, built in 1936 on the outskirts of Berlin (Müller and Sternweiler 2000). Before that, however, let us examine the situation of lesbians during the war.

## **The situation of lesbians**

Although the repression of homosexuals mainly concerned men, lesbians were also affected by the National Socialist regime during the war. As soon as the Nazis came

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21. That was the case when the detainees were counted in Buchenwald on 16 February 1938, in Mauthausen on 28 September 1939 and in Sachsenhausen on 30 April 1943. The maximum known number in any camp was 194 homosexuals, in Buchenwald on 1 February 1945.

to power in 1933 they banned lesbian organisations. Magazines catering for women who preferred women, such as *Die Freundin*, were taken out of circulation in March of that year. Lesbianism was not a criminal offence. In the 1930s several lawyers, including Rudolf Klare, advocated the criminal punishment of lesbians, arguing that it would help to put them back on the right track (Klare 1937). The example to follow would have been Austria, where both male and female homosexuality were punishable offences. In Germany, however, no such law was ever passed, for three reasons:

- ▶ women were considered “re-educatable”, the theory being that a relationship with a man would soon set them straight;
- ▶ the principle of the unnatural act, based on the idea of penetration, was more difficult to prove between women than between men;
- ▶ female homosexuality did not constitute a real threat to public order as perceived in National Socialist thinking. Being women, lesbians were subordinate to men (Schoppmann 2004: 59).

The fact that there was no criminal punishment, however, did not mean there was no social condemnation. Historian Claudia Schoppmann (ibid.: 63) relates the denunciation of two women by a neighbour, also a woman, in May 1940. According to the neighbour, “those two women sleep in the same bed”. In the report preserved in the archives it is stated that “there is no doubt: these are two women with abnormal tendencies. Everything about their appearance confirms it”.<sup>22</sup> However, the conclusion of the report also indicates that “lesbian relationships are not against the law at the present time.”

The only trace Schoppmann found of lesbians having been persecuted concerned women prosecuted for criticising the regime or refusing to submit to anti-Semitic laws. The actual details of their arrests remain vague, however. Among the cases she found, Schoppmann supposes that some of the women were arrested in places where lesbians used to meet. To substantiate that idea, it is explicitly stated in their files that they frequented such places (Schoppmann 2002: 80). Such was the case of Henny Schermann, an unmarried Jewish woman arrested in Frankfurt early in 1940. She is described as an “instinctive lesbian who only frequents that type of place. Refused the first name Sara, a stateless Jew” (Schoppmann 1997: 235). Another Jewish woman, Mary Pünjer, was a similar case. Arrested in Hamburg in 1940, this married woman is described as “a highly active lesbian” (ibid.). Research reveals that she was born Kümmermann in Hamburg in 1904. In 1929 she married one Fritz Pünjer, who was not Jewish.<sup>23</sup> On 24 July 1940, she was arrested, then held in Hamburg’s Fuhlsbüttel prison for three months. In October 1940 she was transferred to Ravensbrück. The reason for her detention was recorded in the entry register as “anti-social”, with “lesbian” as an addendum; the fact that she was Jewish was thus struck from the records. Then, between October 1940 and March 1941, she was interviewed on several occasions by the Hamburg police, and more specifically the

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22. “Ich vermute, dass beide den abnormen Geschlechtsverkehr gemeinsam ausüben.” (I guess both of them have unnatural sex together.)

23. See [www.stolpersteine-hamburg.de/?MAIN\\_ID=7&BIO\\_ID=903](http://www.stolpersteine-hamburg.de/?MAIN_ID=7&BIO_ID=903)., accessed 25 June 2017.

section responsible for sexual crimes and offences. On 15 March 1941 she returned to Ravensbrück, where she was immediately placed under the charge of Dr Mennecke, known to have been one of the main organisers of the T4 killings (disabled people) and the 14f13 killings (of *Minderwertigen*, individuals who were unfit or “of lesser value”), a prelude to the Shoah (Ternon 2013; Friedländer 2015). The time of Pünjer’s return to the Ravensbrück camp corresponds to the start of operation 14f13 in several concentration camps. It was not until Mennecke’s second visit, in January 1942, however, that she appeared on his lists.<sup>24</sup> On the card justifying her selection for “14f13 special treatment” it was stated that she was “a married Jew and a very active (flighty) lesbian. Frequent visitor to lesbian meeting places” (Schoppmann 1997). According to Schoppmann such information could only have come from the police, who would have transmitted her file to the camp authorities. Apart from that there is nothing to indicate that Pünjer was disabled, ill or unfit for work, so her attraction to women was what made her “anti-social”. The last trace of her was at the Bernburg euthanasia centre, where she died on 28 May 1942.<sup>25</sup>

Ultimately, it remains very difficult to determine how many lesbians might have been sent to concentration camps because of their sexual orientation, largely because there has been so little research to date on “anti-social” men and women. Only scattered traces attest to their persecution by the Nazi machine (Kuckuc 1975; Mayer 2002; Schlagdenhauffen 2007; Schoppmann 1997, 1999). In the concentration camp registers “lesbian” only ever features as a secondary trait. In most cases the main reason for these women’s detention is political, with “lesbian” as an addendum (Schlagdenhauffen 2010). That is the case, for example, of Elli Smula (age 26) and Margarete Rosenberg (30), both registered at Ravensbrück on 30 November 1940 as political prisoners, with the added mention “lesbian”. This distinguished lesbians from their male counterparts, for whom the main reason for their detention remained paragraph 175 of the Criminal Code. Their presence is documented in all the concentration camps. The bulk of the research on their living conditions has been done in connection with Sachsenhausen, a camp in the northern suburbs of Berlin.

### **Sachsenhausen, a model concentration camp**

Fourteen first-hand accounts from homosexual survivors have come down to us and a team of researchers under the direction of Andreas Sternweiler and Joachim Müller has done a lot of research into the fate of homosexuals in Sachsenhausen concentration camp. Founded in 1936, it served as a model for all the other camps run by the Schutzstaffel (SS). It was also in Sachsenhausen that the central administration of all the concentration camps in the Reich was located (Müller and Sternweiler 2000: 30). The history of this camp near Berlin, which housed 200 000 prisoners between 1936 and 1945, is in three main phases. The first phase was from its founding until war was declared in 1939, and was characterised by a multiplicity of grounds of detention and the mixing of different types of detainee in each block. The second

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24. Dr Mennecke went to Ravensbrück twice: the first time as an “expert”, on 19 November 1941, then in January 1942. See Strebel (2005: 304), preface by Germaine Tillion.

25. On Bernburg, see Schulze (1999). See also “Les procédures T4 et 14f13”, *Le patriote Résistant*, no. 882, Jan. 2014, p. 8.

period, from 1939 to 1942, was marked by the tentacular spread of the camp, the internationalisation of the population it housed, the building of crematoriums and the isolation of certain types of detainees, including homosexuals. Lastly, the third phase from 1942 onwards covered a period of setbacks for the German army. The conditions of survival became more and more difficult, until the camp was finally evacuated in April 1945 and liberated on 22 April that year.

As soon as the camp was opened in July 1936, homosexuals were among the detainees sent to Sachsenhausen. Like political prisoners and common criminals, they were sent there from other camps, including the one at Lichtenburg, which was being dismantled by then. From 1937 onwards the number of homosexuals from Berlin who were sent there both by the Gestapo and by the police increased sharply.<sup>26</sup> The police in Berlin transferred homosexuals to Sachsenhausen as “professional criminals”, for example following a raid carried out in Berlin in March 1937. As a result, no distinction was made between homosexuals and other categories of deportees. The issue of separating them from other detainees did not arise until 1938, by which time the homosexual relations occurring inside the camp had become too commonplace for the SS to ignore. A number of cases gave rise to trials in Berlin between 1939 and 1941 (*ibid.*: 31 ff.). This was when the practice of dispersing homosexuals throughout the camp was abandoned in favour of increased surveillance of this category of prisoners by grouping them together in special blocks.

According to Sternweiler (2000: 38), the fact that International Red Cross representative Carl Burckhardt visited the Esterwegen, Dachau and Lichtenburg camps in October 1935 and took umbrage at the indiscriminate mixing of the prisoners was a decisive factor in the isolation of homosexual detainees.<sup>27</sup> The practice, together with the imposition of a different coloured triangle for each category of prisoner, was tested in Dachau before being introduced in the other camps. In Sachsenhausen it was not until the start of the war that a block was reserved for paragraph 175 prisoners. In trials held in Berlin from 1939 onwards 50 detainees were interrogated in connection with homosexuality at the Sachsenhausen camp. Of those, 22 already had records for paragraph 175 offences and could therefore be considered repeat offenders, while 23 others had no such record and were able to argue that they had been drawn into homosexual relations for want of a better alternative.

The homosexual scandal at Sachsenhausen led the camp management to separate paragraph 175 detainees from the other prisoners. In addition, when Germany went to war the principle of assigning homosexuals to the penal unit was adopted.

From 12 July 1940 all homosexuals who had served a prison sentence under paragraph 175 were immediately sent to a camp in order to prevent repeat offences. From the start of the war until 1943 the number of detainees at the camp steadily increased and the prison population became increasingly international. Hans Loritz was the camp commander at the time, appointed by Himmler. Known for his severity

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26. In December 1938 the register of inmates sent by the Gestapo showed that 24 homosexuals out of 1 487 individuals had been placed in extra-judicial detention (*Schutzhaft*).

27. Sternweiler cites Stauffer P. (1991), *Zwischen Hofmannsthal und Hitler. Carl J. Burckhardt. Facetten einer aussergewöhnlichen Existenz*, Zurich, p. 77.

as well as his corruption, he would be relieved of his post and replaced in the summer of 1942 by Anton Kaindl, who would run the camp until its evacuation. That same summer almost all the homosexuals in the camp were exterminated, either in the brickworks unit or in the euthanasia centres.

The period from 1943 to 1945 was marked by a stabilisation of the situation for homosexuals. Their number continued to increase, but never exceeded 100 at any one time (ibid.: 50).<sup>28</sup> Their planned extermination was no longer on the cards because, like the other categories of prisoners, they were required to contribute to the war effort. Their situation was by no means enviable, however. They always remained a fragile minority in a concentration camp population that numbered 47 700 at the end of 1944 and over 58 000 in 1945 (ibid.: 48).

In all, between 1 000 and 1 200 homosexual men were incarcerated in Sachsenhausen.<sup>29</sup> Detailed information has only been found on 496 of them, however – mainly because the SS destroyed as many cards, files and lists of prisoners as they could before the camp was evacuated in April 1945. One thing we do know is that homosexuals could be registered under two or three categories, such as “anti-social-Jewish-homosexual”. The 10 registration codes identified by Sternweiler and Müller (2000: 80) are presented in Table 1.

**Table 1: Registration codes for homosexuals in Sachsenhausen**

§ 175	Homosexual	SS-SK 175	SS accused of homosexuality, assigned to the penal unit (SK)
175er	Homosexual		
Homo	Homosexual	Aso 175	Anti-social homosexual
BV175	Criminal homosexual	Aso-J 175	Anti-social homosexual Jew
Sch 175	Extrajudicial detention	BV-J 175	Criminal homosexual Jew
J 175	Homosexual Jew	SV 175	Preventive detention/ homosexual

*Key:* BV = *Berufsverbrecher* (professional criminal); J = Jew; Sch = *Schutzhaft* (extrajudicial detention); SK = *Strafkompanie* (punitive work detail); SS = *Schutzstaffel* (protection squad); SV = *Sicherungsverwahrung* (preventive detention).

The codes “§ 175”, “175er” and “Homo” were used in principle to designate the same category of internees. Certain variations, however, show the precise meaning attached to them: “§175” designates the article of law (from the Criminal Code) on which the incarceration in the camp was based. This code thus corresponds first and foremost to a type of act. “175er” is a reference to a pejorative nickname for homosexuals in German, which one might translate as “queer”. Lastly, the abbreviation “homo” is a reference to the homosexual identity. The way these different terms were used placed

28. Sternweiler cites statement by Classen L. (1954), “Versuchsobjekt Mensch”, *Humanitas* No. 7.

29. Cross-referencing the archives of the Berlin police, the Gestapo, the registry office records of the municipality of Oranienburg-Sachsenhausen and the Archives of the *Länder* of Berlin and Brandenburg. See Müller and Sternweiler (2000).

more or less emphasis on the deed or the identity. We know nothing, however, about how they were attributed.

Also ambiguous is the registration code “BV 175”. Without consulting the details on the registration card it is impossible to know whether it refers to a homosexual who has committed a homosexual offence or a common criminal who happens to be homosexual. The few archives that remain, however, suggest that among the homosexuals sent to concentration camps “BV 175” was the most common category, closely followed by “175er”. Furthermore, about 12% of them fall into more than one category, including Jews, who made up 3% of homosexual internees (Table 2).

**Table 2: Number of prisoners per code**

Code	BV 175	§ 175	Homo	175er	J 175	SS-SK	Aso 175	SV 175	Sch 175	Total
No.	158	74	35	106	13	8	8	4	28	434
%	36.4	17	8	24.4	3	1.8	1.8	0.9	6.4	99.8

### **Homosexuals in the labour *kommandos***

In Sachsenhausen, as in all the other camps, homosexuals were assigned to a penal unit. In this case it was the shoe testing *kommando* (*Schuhläufer*) and the brickworks *kommando* (*Klinkerwerk*). In the former the prisoners were made to walk or run 30 km a day, changing shoes several times as they went, to test their solidity. From 1943 onwards they were also required to carry a 10, 20 or 25 kg load. The assignment was generally not limited in time. But detainees suspected of having had homosexual relations inside the camp were assigned to this *kommando* for one year. According to Müller, none of them survived more than six months (2000a: 185).

The brickworks was the second disciplinary *kommando*. It was a few kilometres from the main Sachsenhausen camp and used more than 1 000 men to supply Berlin with bricks and tiles. By September 1942, 395 homosexuals had died there, almost half of all the homosexuals known to have been detained in Sachsenhausen (Müller 2000a: 220). Among those who survived this deadly ordeal were those who accepted castration. One of them was the artist Fritz Junkermann, who submitted to this “voluntary emasculation”, an operation aimed at ridding homosexuals of their “deviant” tendencies.<sup>30</sup> A first operation was performed on 9 April 1942, followed by a second on 6 August. In October Junkermann was transferred to Dachau to join the herb garden *kommando* (*Kräutergarten*), a code name for deportation to the gas chambers. He died a few days later, on 12 October 1942, officially of a lung infection (Müller 2000b: 288).

Voluntary emasculation was by no means an uncommon practice. Most homosexual Jews appear to have been obliged to submit to it.<sup>31</sup> In fact, they were also assigned to the same blocks as homosexuals, not sent to live with the other Jewish prisoners.

30. His biography was mentioned in the commemorative speech of 26 August 2007 in memory of the homosexuals murdered in Sachsenhausen.

31. Some of the facts presented in this part are borrowed from Schlagdenhauffen (2006).

This suggests a little-known concern of the SS: that of distinguishing detainees by their sexual orientation rather than their “race”. As Sternweiler notes, Jewish homosexuals all had to pass through the camp infirmary (*Revier*). The most plausible reason for this is that they were all obliged to undergo voluntary emasculation. When the result of the operation was inconclusive the men were transferred to the euthanasia centres developed in connection with operation T4. Such was the case of a certain Ludwig Honig, who was transferred on 5 June 1941 to Sonnenstein Castle in Pirna, where he died two weeks later, officially from the effects of a benign infection (Böhm 2015).

The transfers to Sonnenstein were generally coded “S transports”. Müller reports that on 4, 5 and 6 June 1941 some 300 internees from Sachsenhausen were transferred to this euthanasia centre. Among them were 18 homosexuals, 3 of whom were Jews (Müller 2000b). On the subject of the transfers to the herb garden *kommando* Müller notes that of the 118 internees in the convoy of 5 October 1942, 11 were homosexuals (2000b: 297).

All in all, 1942 marked a turning point in Sachsenhausen, in particular for homosexuals. They virtually disappear from the camp’s registers. Some were executed while working in the special brickworks unit, others were emasculated then “euthanised”, yet others were gassed. As for Jewish homosexuals and Jews in general, those still registered in Sachsenhausen were all deported to Auschwitz in October 1942, on orders from Himmler.<sup>32</sup>

In the end, only a few homosexuals survived in Sachsenhausen after 1942, including those fortunate enough to get supervisory jobs in the camp. From then on we observe a general shift in concentration camp policy as regards prisoners: their manpower was to be put to use to serve the war effort. One of the consequences was better care for the sick and a transformation of the infirmaries. From the end of 1942 the camp infirmary was no longer under the absolute control of the Nazi doctors. Internees with any degree of medical experience worked there, making it easier to dispense care to the sick and wounded.

In the period 1943-45, Fred Brade notes the presence of two doctors and five nurses who were detained under paragraph 175 (2000: 300). Walter Timm was one of the homosexual nurses at the camp. He was arrested by the Gestapo in 1937 for repeated offences under paragraph 175. On 5 October 1937 he was sentenced by the Munich court to six years’ imprisonment and five years’ deprivation of civil rights (Hoffschildt 1999: 155-6). Immediately after he had served his sentence he was sent to Sachsenhausen in January 1943. From mid-1943 he was assigned to the infirmary (*Revier*) as an orderly. Then, from 1944 until the evacuation in April 1945, he worked in the camp infirmary, responsible for tuberculosis sufferers. He died in 1963 at the age of 58.

Dr Hermann Pistor (born in 1899) was one of the two homosexual doctors at the camp identified by Brade (2000). His story is that of a fallen Nazi. In 1931 he joined

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32. “Gedenkstätte und Museum Sachsenhausen: Das ‘Museum Baracke 38’: Jüdische Häftlinge im Konzentrationslager Sachsenhausen 1936-1945”, available at [www.orte-der-erinnerung.de/de/ausstellungen/dauerausstellungen/museumbaracke390](http://www.orte-der-erinnerung.de/de/ausstellungen/dauerausstellungen/museumbaracke390), accessed 25 June 2017.



the Nazi Party and became an SS doctor. On 12 July 1937 he was arrested following a secret investigation carried out by the SS and accused both of having homosexual relations and of performing illegal abortions. On 22 December 1937 the Marburg court sentenced him to one year and eight months' imprisonment for homosexuality. Then, on 23 March 1938, the same court sentenced him to three years' imprisonment and five years' deprivation of civil rights for having performed 24 abortions between 1929 and 1937 (ibid.: 302). Lastly, on 29 March 1938 the first section of the NSDAP court expelled him from the party outright (Block 2002). On 30 May 1942, immediately after having served his sentence, he was interned at Sachsenhausen as inmate number 42888.<sup>33</sup> We do not know exactly when he was appointed first detainee doctor (*Häftlingsarzt*). According to Emile-Louis Coudert, a French doctor deported to Sachsenhausen, this appointment was possible because as a former SS officer he had the full confidence of the head doctor (Amicale d'Oranienburg-Sachsenhausen 1981). At the end of November 1944 he was released from the camp along with 358 other detainees, to be sent to the front (Calic 2012). Pistor then joined the Dirlwanger brigade, a unit of the Waffen SS, from which he would never return. Pistor is no unique case. Many homosexuals would follow a similar path and be considered fit for service after spending however long it was in a concentration camp.

### **The army, police and homosexuality**

The enlistment of homosexuals in the Wehrmacht shows the regime's ambiguous attitude towards homosexuals. We have very few eyewitness accounts of this matter to date. It was mainly from 1944 onwards that this recruitment took place, because of the considerable losses at the front. In his memoirs Pierre Seel (1994) was one of those detainees incorporated into the Wehrmacht by force after having spent time in a camp. He is no exception. Several cases support the hypothesis that homosexuals were incorporated into the disciplinary units of the Wehrmacht or the Dirlwanger brigade of the SS (Ingrao 2006). Known for the cruelty of its members, this special unit was named after its commander, Oskar Dirlwanger. According to Christian Ingrao this SS unit committed the worst atrocities of the Second World War. As of 1943 it comprised five companies, two of which were made up of men recruited in the camps.<sup>34</sup> According to Klausch, homosexuals from the camps were used to flesh out the Dirlwanger brigade (1993: 75-6).<sup>35</sup> Apart from Dr Pistor, a certain Anton V. who was released from Sachsenhausen on 31 May 1944 was enlisted in the Dirlwanger brigade (Müller and Sternweiler 2000: 51). So was a Hermann Fries, released on 15 March 1944 to be enlisted in a probation company of the Wehrmacht.

Some of the soldiers assigned to this type of army corps came from the police and the SS – particularly men who had been found guilty of homosexuality. This raises questions as to the official position of the army on the presence of known homosexuals within its ranks. As early as 1937 Himmler declared his intention to eradicate homosexuality from the SS. He ordered homosexuals to be publicly humiliated and

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33. Sachsenhausen archives: R211 M40, p. 142, cited by Brade (2000: 303).

34. One German company, two companies recruited from the KZ, two Russian companies.

35. On the exact provenance of the *Häftlinge*, see Klausch (1993: 75-6).

thrown out of the SS, taken to court and then, once they had served their sentence, sent to a concentration camp. In Sachsenhausen for example, eight detainees were registered under the code "SS-SK 175", which stood for SS assigned to a disciplinary unit for homosexuality. Although Himmler ordered men accused of homosexuality to be treated with the utmost severity, the practical application of that order was left to the discretion of the SS judges (Giles 2002).

Things changed from 15 November 1941, the date of application of a secret decree for the preservation of the SS and the police. Thereafter any agent found guilty of an "unnatural" relationship with another man was to be sentenced to death.<sup>36</sup> Historian Michael Schön (1996) has looked into the case of four police officers executed under this decree. They were arrested and put to death in the last days of the war. According to the archives, on 24 April 1945 the police high command ordered the pardon and release of all prisoners in the Berlin-Spandau police district because of the advance of the Red Army. All, that is, except the four police officers accused of homosexuality (ibid.). The order was to have them executed that very day, by virtue of the decree for the preservation of the police and the SS. The precise reasons for such haste remain unclear, for according to Klausch (1993) this type of case is exceptional in so far as the judges of the court martial, since October 1943, had pronounced themselves in favour of incorporating police and SS officers found guilty of homosexuality into the Wehrmacht. The judges of the court martial distinguished three levels of homosexual offences:

- ▶ minor cases of homosexuality, where there was no likelihood of the offence being repeated: the guilty party was to be assigned to a special unit;
- ▶ slightly more serious cases, where a repeat offence could not be ruled out: the sentence could be served in the special Dirlewanger brigade of the SS;
- ▶ serious cases: the guilty party was to be sentenced to imprisonment and public humiliation.

In late 1943, when the Wehrmacht was suffering colossal losses, it was decided that men convicted of homosexuality in the SS would immediately be enlisted in the Wehrmacht (ibid: 96). As early as 1936, the Wehrmacht had found its own solution for recycling its homosexuals: they were incorporated in the disciplinary battalions, the 500th Probation Battalion (Bewährungstruppe). During the war these battalions numbered over 33 000 men, mostly enlisted by force, and men released from concentration camps.<sup>37</sup>

According to Klausch, there are two explanations as to why homosexuals were enlisted in these troops – and more generally in the army. On the one hand, "it was considered that many of the men convicted under paragraph 175 could be cured

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36. Decree for the protection of the SS and Polizei (15 November 1941): "Für die Angehörigen der SS und Polizei tritt an die Stelle der §§ 175 und 175 a des Reichsstrafgesetzbuches folgende Strafbestimmung: Ein Angehöriger der SS und Polizei, der mit einem anderen Mann Unzucht treibt oder sich von ihm zur Unzucht mißbrauchen läßt, wird mit dem Tode bestraft".

37. In 1936, homosexuals made up 11.5% of the recruits of the 500th Probation Battalion. In 1942-43 they only accounted for 3% of the recruits, and the percentage further dropped to 2% in 1944-45. This is explained by the increasingly numerous channels of recruitment of the men assigned to the 500th Probation Battalion (accused of war-related crimes, black market, theft, etc.).

of their homosexuality and brought back to heterosexual normalcy through re-education" (ibid.: 24). And secondly, to quote the surgeon-general of the armed forces, if homosexuals were excluded from the army, "these psychopaths would see it as a gift and it would soon become an excuse for anyone who wanted to dodge their military obligations" (ibid.: 24).<sup>38</sup> This gives us a better idea why homosexuals were treated as they were, in the camps or the police forces, during the Second World War.

## The post-war period

In 1945, the status of "victim of Nazism" was defined according to precise criteria in Germany: to be acknowledged as a victim, one had to have been persecuted by the National Socialist regime for reasons of a racist, religious or political order. Sintis and Roma, along with homosexuals, were excluded from this process as they were associated with two categories that did not qualify: "antisocials" and "criminals". As well as being a criminal offence, male homosexuality was also condemned by society.<sup>39</sup> After the liberation, to admit to being homosexual was to arouse suspicion and could lead to a new court conviction. Hans-Joachim Schoeps (1963: 86) was one of the first to address this problem in public when he noted that he was now protected from any legal prosecution as a Jew, but not as a homosexual. Even more surprising was the process of disqualifying acknowledged victims who were accused of immorality.

In the archives of the authority in Berlin responsible for determining who was a "victim of fascism", a register entitled "Disqualified persons" has been discovered, containing files on individuals deemed unworthy of belonging to the "victims" category (zur Nieden 2003).<sup>40</sup> Founded on 20 May 1945 in what would become East Berlin, the Opfer des Faschismus (OdF) organisation made it its first mission to offer support to political opponents who had survived the Nazi dictatorship.<sup>41</sup> In September the OdF included Jews in this category, and later, Jehovah's Witnesses.<sup>42</sup> In October it was decided to create two categories of victims: victims of fascism (OdF), who were issued with a red card, and victims of the Nuremberg Laws (OdNG), who were issued with grey cards.

Once the procedure was in place, denouncing a person could lead to them being stripped of victim status.<sup>43</sup> Richard Ewald, for example, was awarded "victim of fascism" status because of his commitment to the anti-fascist cause and his support for Jews

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38. No. 63, Bundesarchiv-Militärarchiv Freiburg (BA-MA) H20/474. Seidler (1977: 201) adds that "until 1943 even emasculated men were deemed fit for military service, as long as they were worthy of serving (*Wehrwürdig*). There was no desire to dispense emasculated men from their military obligations".

39. It should be noted for the record that according to the available data 16% of the men detained in concentration camps for "homosexuality" were married.

40. Term used by historian Susanne zur Nieden (2003). Between 1945 and 1969, 43 homosexuals applied for victim status. When people were disqualified it was usually because somebody had denounced them.

41. *Deutsche Volkszeitung*, 1 June 1945, cited by zur Nieden (2003: 340).

42. *Deutsche Volkszeitung*, 25 September 1945, cited by zur Nieden (2003).

43. Until 1948, OdF in Berlin centralised applications for "victim of Nazism" status and issued associated cards.

during the war. Following an anonymous tip-off accusing him of being a homosexual, the OdF opened an investigation on him, and revealed that Ewald had been sentenced to imprisonment for homosexuality. After serving his prison sentence, he had been transferred to a concentration camp. Because he was a homosexual, this man, who had survived the Sachsenhausen and Theresienstadt camps, was made to surrender his “victim of fascism” card. He was also convicted by the courts as a repeat offender. Another case was that of Hertha Stein, a Jewish woman who survived Auschwitz. She was reported by her landlady, who accused her of having seduced her 30-year-old daughter. The landlady asked the OdF to check whether Hertha Stein was still worthy to be considered a victim of Nazism in view of her morals. The OdF ruled that “[Hertha Stein’s] behaviour insulted the dignity of the victims of fascism” (ibid.).

When the two Germanys came into being the Democratic Republic issued a decree in 1949 guaranteeing legal recognition to people acknowledged to have been persecuted by the Nazi regime. In 1953 the Federal Republic passed a federal compensation act. In 1957, following the enactment of the law on the consequences of the war (*Kriegsfolgengesetz*), 23 men prosecuted for homosexuality obtained partial recognition of their persecution (ibid.: 351). However, the continuing existence of paragraph 175 meant that they could still be arrested and sentenced to imprisonment, especially as in 1957, a judgment of the Federal Supreme Court held that paragraph 175, in its stricter version of 28 June 1935, was not anti-constitutional.<sup>44</sup>

It was not until 1985, the year of the 40th anniversary of the capitulation of the Nazi regime and the 50th anniversary of the promulgation of the Nuremberg Laws, that the question of the recognition of homosexuals as victims of Nazism was debated. There were parliamentary initiatives at the regional level (Berlin parliament) and the federal level (Bundestag) calling for the recognition of all the victims of Nazism. Green MP Hans Christian Ströbele addressed the Bundestag on 17 October 1985 and proposed including homosexuals and other groups hitherto excluded from “victim of fascism” status.<sup>45</sup>

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44. Bundesverfassungsgericht: Beschluss vom 10 Mai 1957 – 1 BvR 550/52, BVerfGE 6, 389.

45. Bundestag: Drucksache 10/3084 (10.4.1985) and Drucksache 10/3161 “*Verfolgung der Homosexuellen während des NS-Regimes*” (30.4.1985); Drucksache 10/4040 (17.10.1985).

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## Chapter 3

# The *Anschluss* – Also a sexual annexation? The situation of homosexual men and lesbian women in Austria under Nazi rule

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**T**he legal situation regarding homosexuality was special in Austria compared with that of most other European countries throughout the 20th century: Paragraph 129 Ib of the Austrian Criminal Code from 1852 punished both male and female homosexuality, and women were indeed prosecuted on the basis of this article, though to a much lesser extent than men. Before the Nazis came to power in Germany in 1933, criminal prosecution on charges of “same-sex fornication” was much more rigorous in Austria than in Weimar Germany, not least because the German law only criminalised male homosexuality. Also, the Austrian Supreme Court interpreted the term “fornication” more extensively than the German jurisdiction defined the respective term in paragraph 175 of the German Criminal Code from 1871. This was probably the main reason why no gay and lesbian scene comparable to the scene in Berlin, for example, developed anywhere in Austria in the interwar period.<sup>47</sup>

Soon after taking power in Germany, the Nazis launched a massive persecution, aimed at erasing primarily male homosexuality. As female homosexuality was seen as a much lesser threat to the national community (*Volksgemeinschaft*), the reform

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46. This article is based on the author’s unpublished 2012 thesis, parts of which have already been published in Kirchknopf (2013). The preliminary results of an ongoing project conducted in Vienna by QWIEN – Centre for Gay/Lesbian Culture and History ([www.qwien.at](http://www.qwien.at), accessed 26 June 2017), which aims to collect all existing data on the persecution of homosexuals in Vienna during the Nazi period, will also be taken into account in this chapter. This project is the most recent scholarly contribution to a debate in Vienna that began many years ago about a memorial for victims of the Nazi regime who were persecuted as homosexuals. At the time of going to press, no such official memorial exists.

47. Wahl (2004: 13–15) describes the absence of a gay and lesbian scene in Austria before the *Anschluss* and points out the various consequences of missing gay and lesbian networks, but he does not consider possible reasons for these circumstances.



of the German Criminal Code in 1935 and the introduction of additional means of persecution targeted first and foremost male homosexuality.

The Nazi regime applied the same policy towards gay men in Austria once it was annexed to Germany in 1938. Institutions like the *Sondergerichte* (special courts) and the Gestapo (secret state police) were also installed in the *Ostmark* (eastern borderland – Austria) and, among other things, given the task of fighting male homosexuality.

In the course of the so-called *Anschluss* (annexation), however, the entire system of law enforcement – of criminal prosecution, including the Austrian Criminal Code, the courts and the executive forces (namely, the police, the state attorney and the prison regime) – was transferred to the new system without complications and without major alterations, and was then reformed and adapted over time. Some of the personnel were replaced immediately if they were categorised as Jews or “politically unreliable”.

When analysing Nazi crimes against homosexuals in Austria, it is therefore indispensable to analyse the entire system of criminal prosecution, not just the system of persecution which the regime installed parallel to the regular system of prosecution. Most of the research so far has been conducted on this parallel system of persecution. Women, however, were in general not marked as homosexuals in this system. In 1997, the Austrian political scientist Gudrun Hauer criticised the focus on the extermination in concentration camps when examining the persecution of homosexuals on the grounds that it was insufficient and distorting for the research on the situation of lesbian women (1997: 150). Her plea was repeated by Jens Dobler (2012: 53), but their arguments have found little resonance among historians. A wider focus and a new perspective are crucial in order to encompass the dimension of injustice that homosexual men and women had to suffer under the Nazi regime.

I shall focus here on the system of regular criminal prosecution. I shall argue, based on a statistical and a law-historical analysis of historical documents from the regular courts of Vienna, that lesbian women also suffered increased and systematic persecution in Austria under Nazi rule. We will see that the persecution of female homosexuality increased significantly under the influence of the Nazi regime compared with previous years and that measures the regime introduced in order to increase the criminal prosecution of gay men were also used for the persecution of lesbian women, at least in Vienna.

Following a brief overview of the state of research, I shall analyse Austrian law, its historical background and the jurisdiction of the Supreme Court to the extent that significant changes can be observed. Without going into detail, I shall summarise Nazi policy on homosexuality and the main aspects of the Nazi-specific persecution of gay men in order to show the distinctive patterns of the parallel systems of persecution. The implications of Nazi-specific reforms within the Austrian system of regular criminal prosecution and their effects form the main part of this chapter. Finally, I shall draw some conclusions and make suggestions for further research.

## State of research and sources

Hundreds of historical documents exist relating to the system of regular criminal prosecution of homosexual acts at the time of the Nazi regime in Austria. In the course of a project being conducted at QWIEN (Centre for Gay/Lesbian Culture and History), 636 court files from the two Vienna regional courts that existed at that time were digitised. These comprise approximately 85% of the files regarding homosexuality that these two courts had originally produced. The files vary from a few pages to over 2 000 pages.<sup>48</sup>

More than 1 400 persons were accused of having committed the crime of “same-sex fornication”: at least 79 of them were female, and five persons showed signs of an undiscerned gender identity. All files from the juvenile court have been destroyed and the files from military courts are yet to be counted and listed.<sup>49</sup> Little of this material has been examined so far regarding the structural aspects of the persecution of female homosexuality.

In the 1980s, a major project examined more than 2 000 court cases in relation to “same-sex fornication” from all over Austria from the 1930s to the 1950s. The first results of this project were published in an article in 1998 by Albert Müller and Christian Fleck. The authors stated that in all the historical documents they had examined, the share of women was under 5% and they thus classified the persecution of female homosexuality as marginal (Müller and Fleck 1998: 419).

In a recent article on homosexuality and criminal statistics in Austria, Hans-Peter Weingand (2011: 53) referred to Müller and Fleck’s results and came to the same conclusion on the basis of the data he had examined. A point of criticism, however, is that they all use an arithmetic average of their data, which derive from a period longer than that of Nazi rule in Austria.

In his contribution to a report by Austria’s historical commission in 2004, the historian Niko Wahl (2004: 69) states that the legal measures that the Nazi regime had introduced resulted in the suspension of more sentences against women on grounds of “same-sex fornication”, but he does not provide statistical data.

The leading expert on the persecution of female homosexuality by the Nazis, Claudia Schoppmann has examined most of the Vienna court files relating to female homosexuality (1999), but she did so from a different perspective. Her focus lay more on the biographical data of women who had been persecuted and less on structural aspects. In her dissertation and other publications though, she has analysed Nazi politics against homosexual women (1991), and concludes that the Nazi regime did not conduct systematic persecution of female homosexuality (2012: 49, 2002: 80, 1998: 10, 1993: 42).

But Schoppmann’s conclusion has to be relativised. Although the Nazi regime had obviously not planned to persecute female homosexuality as systematically as it

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48. The author of this chapter works for this project. For a detailed description of the project see: Kirchknopf (2014).

49. Results presented at a conference in Vienna (Gedenken neu gedacht – Wien gedenkt vergessener Opfer, 28 and 29 November 2014), and published in: QWIEN/WASt (2015).

persecuted male homosexuality, it did not change the Austrian law that criminalised both male and female homosexuality. Female homosexuality was systematically persecuted in Austria even before the Nazis came to power. The question is, in what way was the existing system influenced or changed by the regime?

### **The Austrian law, its historical background and interpretation by the Supreme Court**

Paragraph 129 I of the Austrian Criminal Code from 1852 defined the crime of “unnatural fornication” as follows: “Fornication against nature, that is, a) with animals, b) with persons of the same sex”.<sup>50</sup> Paragraph 130 ordered the penalty to be between one and five years in regular cases, which could be extended, for example, to life in prison if the criminal action resulted in the death of a person involved (para. 126). Paragraph 129 I remained in effect with this wording until August 1971,<sup>51</sup> including during the Nazi period. The wording included women, which the Supreme Court confirmed in 1887.<sup>52</sup>

In this ruling, the Supreme Court itself reconstructed the history of the criminalisation of female homosexuality in Austria all the way back to the Penal Code of Emperor Charles V, from 1532. Although it can be assumed that paragraph 129 Ib of the Austrian Criminal Code was probably not applied to women for about 35 years because of a different interpretation of the law (Benke and Holzleithner 1998: 66), female homosexuality was persecuted (again) in Austria at least from 1887 onwards. The concepts of female homosexuality, which prevailed within the judiciary, differed in many aspects from the concepts of male homosexuality – this was one of the reasons why fewer women were persecuted than men. The Supreme Court, however, did not draft different elements of the crime of “same-sex fornication” for men and women. From a purely juridical point of view, the jurisdiction did not treat women differently from men, because the differences in the concepts were not considered a question of law but a question of nature, hence a question of facts (Kirchknopf 2012). These reflections should not be misunderstood as juridical sophistry. They lead to the central question of how the legal system of a state evaluates criminal actions. From the perspective of the legal and the juridical system of Austria, homosexual acts between women were considered as unlawful as homosexual acts between men. The fact that fewer women than men were prosecuted on charges of “same-sex fornication” does not derive from a different legal evaluation but from different perceptions of female and male homosexuality. The knowledge about homosexuality, both male and female, was produced by a male-dominated medical and juridical elite (Greif 2014). It was not defined by the people concerned.

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50. *Kaiserliches Patent*, 27 May 1852, *Allgemeines Reichs-Gesetz- und Regierungsblatt für das Kaiserthum Oesterreich* (RGBl.), 1852, 36. Stück, Gesetz Nr. 117, S. 521, § 129, available at <http://alex.onb.ac.at/cgi-content/alex?aid=rgb&datum=1852&page=607&size=45>, accessed 26 June 2017.

51. *Strafrechtsänderungsgesetz* 1971 BGBl. (Bundesgesetzblatt) Nr. 273/1971, Article I, Nr. 5 in connection with Article V, see [www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgbIPdf&Dokumentnummer=1971\\_273\\_0](http://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgbIPdf&Dokumentnummer=1971_273_0), accessed 26 June 2017.

52. Erkenntnis [E., ruling of the Austrian Supreme Court] from 18 February 1887, Slg. 1028 [number of the ruling in the published collection, “Sammlung”], in Nowak (1888).

As the wording of the law, “Fornication against nature, that is, ... with persons of the same sex”, did not describe any concrete action, it was up to the courts to define this crime. The Supreme Court emphasised several times that the term “fornication” had to be understood in its “common meaning”<sup>53</sup> (1902 and 1927), in its “natural meaning”<sup>54</sup> (1906) or in its “general linguistic usage”<sup>55</sup> (1938). The legal historian Elisabeth Greif (2014: 294) argues convincingly that the Austrian Supreme Court adopted an extensive interpretation of the term “fornication” around the year 1900, following recent developments in the sexual sciences, the focus of observation having shifted from the sexual act to sexual lust.

The Supreme Court thus defined “fornication” as an act that serves the arousal of sexual urge and offends common decency.<sup>56</sup> The jurisdiction made use of this leeway for interpretation, and the case studies that the Supreme Court published in the course of many decades before 1938 did not form a consistent picture of the elements of the crime of “same-sex fornication”<sup>57</sup> – legal experts criticised that already in the 1920s (Altmann 1929: 346 ff.). Leaving inconsistencies and contradictions out of consideration, however, the following synopsis of descriptions of concrete actions can be compiled from rulings of the Supreme Court: the crime of “same-sex fornication” was committed not only by actions that would resemble heterosexual intercourse but also by masturbatory actions that were performed on the genitals of another person of the same sex.<sup>58</sup> Simply touching the genitals of another person of the same sex without any intention to masturbate the genitals of the other person, however, was not enough to commit the crime of “same-sex fornication”, not even when it served to arouse sexual urge while masturbating one’s own genitals.<sup>59</sup>

The Supreme Court did not find it necessary that the sex partners be naked: two men were found guilty because they were rubbing and pushing their bodies against each other in order to achieve sexual satisfaction while being fully dressed.<sup>60</sup> This interpretation of the term “fornication” was wider than the definition of the respective term of paragraph 175 of the German Criminal Code from 1871 in its original version, which referred only to oral and anal intercourse between men (Schulz 1994: 8). The

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53. E. 12 September 1902, Slg. 2747, in: k. k. Generalprokuratur (Ed.), Entscheidungen des k. k. Obersten Gerichts- als Cassationshofes, Vol. 4, Wien 1903, p. 257-260, here 257; E. 25 March 1927, SSt. VII 30 [number of the ruling in the published collection, “Sammlung Strafsachen”], in: Entscheidungen des österr. Obersten Gerichtshofes in Strafsachen und Disziplinarangelegenheiten. Veröffentlicht von seinen Mitgliedern unter Mitwirkung der Generalprokuratur, Vol. 7, Wien 1927, pp. 82-84, here 82.

54. E. 15 June 1906, Slg. 3209, in: k. k. Generalprokuratur (Ed.), Entscheidungen des k. k. Obersten Gerichts- als Kassationshofes, Vol. 8, Wien 1907, pp. 236-240, here 238.

55. E. 8 November 1938, SSt. XVIII 74, in: Entscheidungen des österr. Obersten Gerichtshofes in Strafsachen und Disziplinarangelegenheiten. Veröffentlicht von seinen Mitgliedern unter Mitwirkung der Generalprokuratur, Vol. 18, Wien 1938, pp. 179-181, here 180.

56. Slg. 2747, op. cit., p. 258.

57. For a detailed analysis of the Jurisdiction of the Supreme Court, see Kirchknopf (2012).

58. SSt. VII 30, op. cit., p. 82.

59. E. 22 October 1937, SSt. XVII 129, in: Entscheidungen des österr. Obersten Gerichtshofes in Strafsachen und Disziplinarangelegenheiten. Veröffentlicht von seinen Mitgliedern unter Mitwirkung der Generalprokuratur, Vol. 17, Wien 1937, pp. 270-271.

60. SSt. XVIII 74, op. cit., p. 181.

Nazi regime, however, reformed this law once they came into power, and they introduced additional means of persecution.

## **Nazi policy on homosexuality**

The Nazis considered male homosexuality a threat to the “people’s body” (*Volkskörper* – a one-body metaphor for the entire population) because it would diminish procreation (Grau 2004). Also, they conceived it a danger to the male-dominated Nazi state, as the “homosexual enemy of the state” could destroy it – this trope came up in the context of the so-called Röhm Putsch, when the leader of the SA Ernst Röhm, was killed on the orders of Adolf Hitler, allegedly for having planned a coup d’état within a network of other homosexual men (zur Nieden 2012). Female homosexuality, on the other hand, was seen as a much lesser threat, as homosexual women were considered more easily “curable” by heterosexual intercourse than homosexual men, thus fewer women would be lost to procreation. Female homosexuality, moreover, was considered less severe owing to the diminished role of women in the Nazi state (Schoppmann 2012: 38-9).

Soon after the Nazis assumed power in 1933, they launched an unprecedented pursuit of homosexuals – eradicating homosexuality was the goal, and homosexual men, and to a lesser extent women, were their target. The thriving gay and lesbian scene that had evolved in many cities in Weimar Germany was smashed (Bollé 1992). The Gestapo were involved in the persecution of gay men. In 1935, the German Criminal Code was reformed and paragraph 175 became much more draconian, although female homosexuality was not incorporated as a criminal act.<sup>61</sup>

Additional means of police power, such as confinement in concentration camps and “optional castration” (Birke 2015), were introduced, as were additional means of law enforcement such as the persecution of so-called “dangerous habitual criminals” (para. 20a of the German Criminal Code) by special courts. Between 5 000 and 10 000 men were imprisoned in concentration camps for alleged homosexuality, 50% of whom died in the camps (Eschebach 2012: 12).

## **Reforms of the Austrian jurisdiction**

Once Nazi Germany had annexed Austria, in March 1938, the regime introduced the same policy and applied the same methods in the *Ostmark*, aiming to eradicate male homosexuality. This went much faster than it had in previous years in Germany. The Gestapo was entrusted with the persecution of homosexuals, at least until shortly before the war. This agenda was then taken over by the regular police again, which did not improve the situation of the persecuted in any case. Generally, persecution increased dramatically: many gay men were confined in concentration camps on the orders of the Gestapo or the regular police and special courts rendered draconian judgments – even death sentences (Wahl 2004).

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61. German Reichsgesetzblatt (RGBl.) I 1935, pp. 839 and 841.

The primary legal basis of this persecution, the Austrian Criminal Code from 1852, however, was left in force.<sup>62</sup> Consequently, female homosexuality continued to be categorised as a crime within the regular system of criminal prosecution in the new province of *Ostmark*. Hence the question is: what effects did Nazi policy and reforms have on the criminal prosecution of female homosexuality? I shall consider this question on the basis of a legal historical analysis and later on the basis of a statistical study of Vienna court procedures.

Besides the continuity of the legal basis (para. 129 Ib of the Austrian Criminal Code), the interpretation of this article, which the Austrian Supreme Court had developed over many decades, was also applied further on, even by the German Supreme Court, once the Austrian Supreme Court had been dissolved on 1 April 1939 (Waldstätten 2011: 269). Despite its extensive interpretation of the term “fornication”, as outlined above, the Austrian jurisdiction was still not strict enough for the Nazis and did not meet the new standards that they had introduced in their zeal to erase homosexuality. As on so many other occasions, it was a single case that led the regime to a rigorous reaction – already in 1941, Ernst Fraenkel had denominated the Third Reich a “prerogative state”,<sup>63</sup> which also described how the executive branch influenced the juridical branch by exerting political pressure.

The following events that led to the alignment of the Austrian jurisdiction were first outlined in 1993 by historian Günter Grau (2004).<sup>64</sup> In October 1939, the sixth senate of the Supreme Court in Leipzig, which at the time was responsible for Austria, or the *Ostmark*, allowed a man from the Austrian city of Linz to go free because he had only touched another man’s penis. The court took the old jurisdiction of the Austrian Supreme Court as the basis for this decision, and argued that it would have needed at least an additional “masturbatory intention”, which the court could not find in this case.<sup>65</sup> The acquittal provoked uproar, and *Das Schwarze Korps*, the journal of the SS, published a polemical article, regarding the verdict as far too lenient. The article triggered a strong reaction from the Ministry of Justice, which called for more rigorous action against homosexuals. They first considered changing the law, but came to the conclusion that the Supreme Court would only need to change the interpretation of the law.

This was finally achieved in June 1940, when the sixth senate of the Supreme Court had to decide on a similar case. The court ruled that henceforth the term “fornication against nature” in paragraph 129 Ib of the Austrian Criminal Code ought to be interpreted according to the term “fornication” in paragraph 175 of the German Criminal Code in its reformed version from 1935.<sup>66</sup> The German Supreme Court interpreted paragraph 175 of the German Criminal Code very broadly, as Christian Schulz (1994: 8) has pointed out in his legal analysis. The court did not deem physical contact

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62. Gesetz über die Wiedervereinigung Österreichs mit dem Deutschen Reich (Act on Reunification of Austria with the German Reich), Artikel II, German RGBl. I 1938, pp. 237-8.

63. Fraenkel (2006) himself translates “prerogative state” as “Maßnahmenstaat”.

64. See also Schoppmann (1999: 135-7).

65. RG. (Decision of the German Supreme Court, the *Reichsgericht*) from 17 October 1939, 6 D 559/39, EvBl. 42/1940, in: *Evidenzblatt der Entscheidungen und des Schrifttums* Vol. 7 (1940), pp. 12-13.

66. RG. from 4 June 1940 – 6 D 121/40 –, in: *Deutsche Justiz. Rechtspflege und Rechtspolitik*. Amtliches Blatt der deutschen Rechtspflege Vol. 102 (1940), pp. 964-5.

necessary, but found eyeing another man's penis for achieving sexual arousal sufficient evidence of this crime.

Historians have long reflected on the question of the effects the alignment of the Austrian jurisdiction had on the persecution of female homosexuality. In her dissertation, Schoppmann (1991: 114) assumed that it probably ended the persecution of lesbian Austrians. A couple of years later, however, she published a study on court cases that proved continued persecution of female homosexuality after the alignment of the jurisdiction with that of Germany (Schoppmann 1999). Wahl (2004: 69) argued that it had led to a decrease in convictions of women on charges of "same-sex fornication", though he presented no supporting data.

The historical documents that Grau has published do not give any hint as to whether the institutional players involved in these events had even reflected on any possible effect of their decisions on women. The Vienna Regional Court 1, however, used the extended interpretation of paragraph 129 lb of the Austrian Criminal Code to convict at least three women on charges of "same-sex fornication" by referring explicitly to the above-mentioned Supreme Court decision from June 1940 in its verdicts.<sup>67</sup> According to the former jurisdiction, these three women should have gone free (Kirchknopf 2012: 71-5). From a legal point of view, this is significant, because it proves that a Nazi-specific measure for the persecution of homosexuality was also applied to women. Whether it was intended by the regime or not, lesbian women suffered severely and systematically from the Nazi persecution of homosexuality, at least in Vienna.

## **Statistical analysis of court proceedings**

One finds evidence for the systematic and increased persecution of female homosexuality not just on the basis of court files. Statistical data on the intensity of the criminal prosecution of "same-sex fornication" in Vienna at the time of the Nazi regime also support the thesis of this chapter. Conventional criminal statistics present data on criminal convictions. They focus on people who were convicted of having committed a certain crime.

To assess the intensity of the criminal prosecution on charges of "same-sex fornication" as it was carried out by the authorities in Vienna, it is more helpful to focus on the amount of effort that was put into the prosecution of this crime. For this purpose, the main register of the Vienna Regional Court 1 provides useful data.

The register contains the records of all those persons who were prosecuted by this court, regardless of the outcome of the court procedures (ibid.: 84-7). A similar analysis of the main register of the Vienna Regional Court 2 was not possible because it does not contain records of the criminal charges.<sup>68</sup> Most of the crimes and offences,

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67. Municipal and Provincial Archives of Vienna (WStLA), Landesgericht für Strafsachen Wien, LG I (Vienna Regional Court 1), A11 – Strafverfahren (court procedure): Vr 1464/1942, Urteil (verdict) ON 9, p. 80; WStLA, Landesgericht für Strafsachen Wien, LG I, A11 – Strafverfahren: Vr 328/1942, Urteil (verdict) ON 10, p. 55.

68. WStLA, Landesgericht für Strafsachen Wien, LG II (Vienna Regional Court 2), B 24 – Vr-Register: Jahre 1932-1945.

however, which were committed in Vienna were prosecuted by the Vienna Regional Court 1 (Kirchknopf 2012: 98, 111).

The main register of a court provides basic data on all court procedures that took place. The data can be used as an indicator of the amount of effort that a court put into the prosecution of crimes and offences. Although they might be very abstract, the data are comprehensive and complete, especially compared with court files, some of which have been destroyed. To provide a basis of comparison, I shall present data from the period 1932-45. It is only by comparison with the years prior to the *Anschluss* that it is possible to tell whether or not the Nazi regime had an influence on the juridical sector.<sup>69</sup> In Figure 1, the number of court procedures on charges of “same-sex fornication” (light grey line) are set in direct relation to all court procedures that were initiated at the Vienna Regional Court 1 (dark grey line) between 1932 and 1945.<sup>70</sup>

**Figure 1: Court procedures based on para. 129 Ib in relation to all court procedures at the Vienna Regional Court 1, 1932-45**

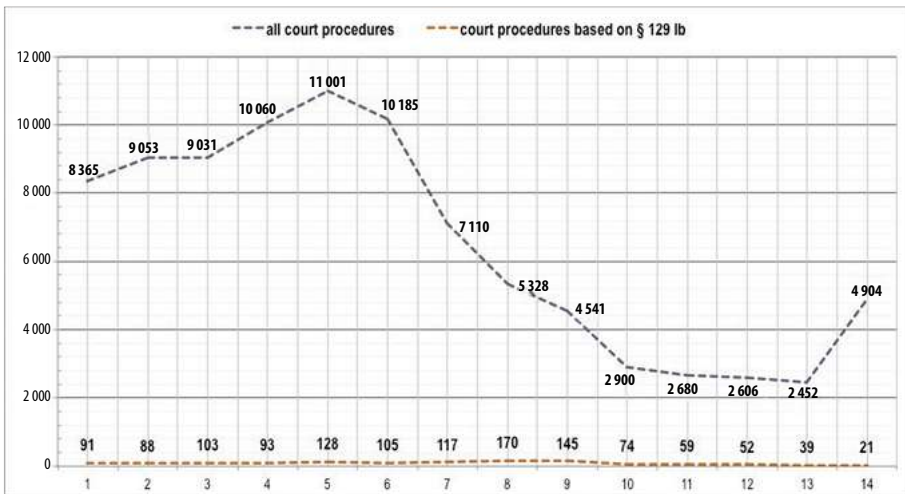


Figure 1 may lead to the conclusion that the crime of “same-sex fornication” was of marginal interest to the court. If we take a closer look, however, we notice a significant difference in the development between the light grey line and the dark grey line in the period 1937-39: whereas the number of all court procedures almost halved, the number of court procedures on charges of “same-sex fornication” grew by almost 70% during this period. This indicates changing interests in the persecution of this specific crime. In order to make this development more visible, the relative share of court procedures on charges of “same-sex fornication” have been calculated in terms of percentage (Figure 2).<sup>71</sup>

69. For further details on the collection of the data, see Kirchknopf (2012: 87-8, 97-100). The data were collected from: WStLA, Landesgericht für Strafsachen Wien, LG I, B 14 – Vr-Register: from 1932 until 1945.

70. Data first published in Kirchknopf (2013: 97ff.); for details about the data collection, see Kirchknopf (2012: 87-8, 97-100).

71. Data first published in Kirchknopf (2013: 97, 99).



**Figure 2: Relative share of court procedures based on para. 129 Ib at the Vienna Regional Court 1, 1932-45 (%)**

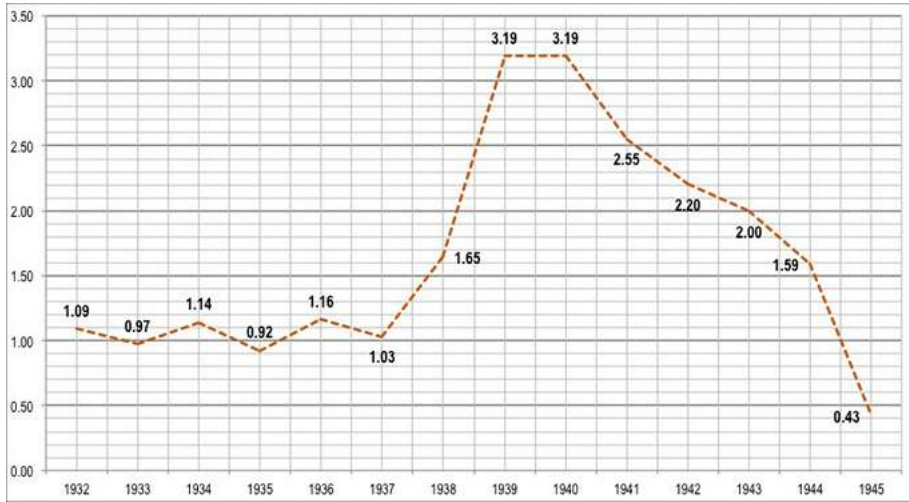
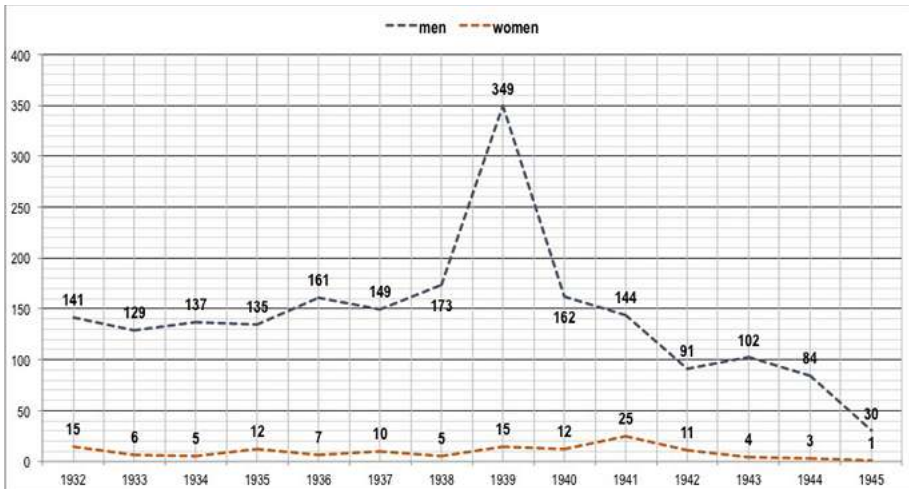


Figure 2 shows that the intensity of the criminal prosecution on charges of “same-sex fornication” conducted by the Vienna Regional Court 1 almost doubled when the Nazis came to power in Austria and it stayed at a higher level than before throughout their time in power, except for the last month of their rule in 1945. Figure 3 demonstrates how the number of men and the number of women who were prosecuted on charges of “same-sex fornication” by the Vienna Regional Court 1 changed between 1932 and 1945.<sup>72</sup>

**Figure 3: Number of women and men who were prosecuted on charges of “same-sex fornication” by the Vienna Regional Court 1, 1932-45**



72. Data first published in Kirchknopf (2013: 92ff.).

The sharp decrease in the number of men who were prosecuted on charges of “same-sex fornication” from 1939 to 1940 can be explained by the beginning of the war. Most of the young men were enlisted in the army and subordinated to military jurisdiction. More interesting is the development of the light grey line: the number of women tripled between 1938 and 1939 and reached its highest in 1941. For better illustration, the relative share of women among all persons prosecuted on charges of “same-sex fornication” by the Vienna Regional Court 1 has been calculated as a percentage, and the results are presented in Figure 4 (Kirchknopf 2013: 92, 94).

**Figure 4: Relative share of women out of all persons prosecuted on charges of “same-sex fornication” by the Vienna Regional Court 1, 1932-45 (% arithmetic average: 6.14%)**

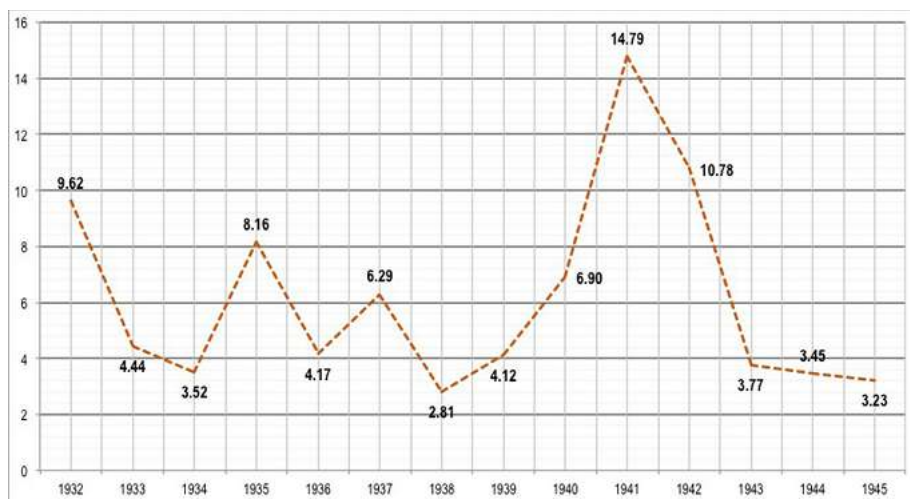


Figure 4 shows that between 1932 and 1938, the share of women showed a decreasing tendency. Between 1938 and 1941, however, it grew constantly, reached a height of almost 15% in 1941, remained at a high level in 1942 and then decreased sharply. The height of the relative share of women in 1941 and 1942 cannot solely be explained by the decrease in the number of men who were prosecuted, because the absolute number of women also reached its height at the same time. This indicates a statistically significant increase in the intensity of the criminal prosecution of women on charges of “same-sex fornication” in Vienna at the time of the Nazi regime.

A close examination of the reforms that the Nazi regime introduced into Austrian criminal law regarding homosexuality and of the practical application of these reforms within the system of regular criminal prosecution show that these reforms had a considerably negative effect on lesbian women. Although the institutional players had probably not even considered the possible effects of these reforms on the criminal prosecution of women, negative effects can nevertheless be detected. A deep legal historical analysis of the jurisdiction confirms that the intensified interpretation of paragraph 129 lb of the Austrian Criminal Code, as introduced by the Supreme Court in 1940, was also applied by subordinate courts in order to convict women on charges of “same-sex fornication”. Furthermore, a statistical analysis of the court procedures of the Vienna Regional Court 1 indicates an increased intensity

of the criminal prosecution of women on charges of “same-sex fornication”. Thus, lesbian women also suffered increased and systematic persecution in Austria under Nazi rule.

A wider focus on the persecution of homosexuality by the Nazi regime in Austria also has certain significance for future research, as it raises the question: what was kept or left over from the measures that the regime introduced in order to erase homosexuality? Means of persecution that were installed parallel to the regular system of criminal prosecution were revoked after Austria became independent again. However, the question must be raised as to whether the entire system of criminal prosecution went back to the status quo ante.

This chapter sheds light on some of the alterations and transformations that the Nazi regime implemented within the system of criminal prosecution. Hardly any research has been conducted so far on the persecution of homosexual men and women in Austria between 1945 and 1971. Statistical data of sentencings on grounds of “same-sex fornication” in Austria, which Weingand (2011: 54) has published recently, show that in the 1950s the numbers of sentences were greater than the figures from the Nazi period; 1945 does not seem to have been a clear caesura, at least not for gay men and lesbian women.

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## Chapter 4

# Legal imbroglio in the Protectorate of Bohemia and Moravia

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*Jan Seidl*

**F**or a long time, the Czech historiography of homosexuality, which was undertaken starting in the 1990s, focused on the period of the First Czechoslovak Republic (1918-38) and the communist period. The available sources concerning the First Republic consist mainly of several volumes of a magazine called *Hlas sexuální menšiny* (Voice of the sexual minority), which were published at the time. With respect to the communist period (1948-89), oral accounts have helped to make up for the shortage of written records. The Second World War, as far as the Czech homosexual context is concerned, was very much ignored or described in terms of generalisations about how hard it was for homosexuals sent to concentration camps wearing pink triangles. Such generalisations were sometimes qualified by the hypothesis that Czech homosexuals were, largely, able to live in relative peace as it was essentially the German people Nazi policy aimed to protect from homosexual decadence.

What were the mechanisms and conditions governing the persecution of homosexuality in the Protectorate of Bohemia and Moravia? Did the situation of homosexuals deteriorate in comparison with the previous period of the First Republic? What tools, both judicial (“ordinary” prisons) and extrajudicial (various types of deportation) were used to persecute homosexuals? These are the questions my research has addressed since 2008, and which has also given us insight into the everyday living conditions of homosexuals and their communities at the time.

The research sources used were the archives of the Criminal Court of the Protectorate of Bohemia and Moravia in Prague, where both registers and individual files are kept, and the archives of the German Criminal Court in Brno and of the Gestapo in Brno, where only a very small number of files concerning the persecution of homosexuality exist, which were inventoried by the Moravian provincial archives in Brno a few years ago. As regards the situation of homosexuals under the fully German legal system in force in the Sudetes, I shall refer mainly to the work of Jean-Luc Schwab, *Itinéraire d'un triangle rose* (Brazda and Schwab 2010), which tells the story of Rudolf Brazda (1913-2011), one of the last surviving men deported for homosexuality who, prior to his arrest, actually lived in the Sudetes, in the city of Carlsbad. With respect to Slovakia and Carpathian Ruthenia, research remains to be done.

I shall begin by examining the situation of Czech homosexuals before the occupation. Then I shall analyse the forms of legal and extra-legal persecution of homosexuals and how these forms of persecution changed during wartime. As well as their persecution, I shall examine the everyday lives of homosexuals in wartime and how a thriving community continued to exist, especially in Prague, even though the risk was much greater because the Protectorate was under the control of Nazi Germany.

The criminal law of the First Czechoslovak Republic was characterised by its duality. In the territory that, under the Austro-Hungarian Empire, had been part of Cisleithania (Bohemia, Moravia, Silesia), the old Austrian Criminal Code was used. In Slovakia and Carpathian Ruthenia (formerly part of Transleithania), on the other hand, the old Hungarian Criminal Code applied. The latter code was considerably more lenient towards homosexual acts between men and did not provide for any prosecution for such acts between women. This situation of duality was further complicated following the Munich agreements (autumn 1938), when the Sudetes border region was incorporated into Germany, Cieszyn Silesia into Poland and southern Slovakia into Hungary. In these occupied regions German, Polish and Hungarian law respectively was gradually brought into force, with varying results. The condition of homosexuals in the Sudetes immediately deteriorated with the application of paragraph 175.a of the German Criminal Code. Conversely, in Cieszyn Silesia homosexual acts were decriminalised, as such acts were not considered crimes under the Polish Criminal Code of 1932. The break-up of the rest of Czechoslovakia and the proclamation of the Protectorate of Bohemia and Moravia on 16 March 1939 merely added to this legal complexity, offering a unique case study of comparative history.

### **Legislative duality in the Protectorate**

No sooner was the legal duality of the First Republic brought to an end by the dissolution of the two halves of the Republic, than the Protectorate was faced with the introduction of new legislation on sexual relations between consenting adult men. But unlike the previous dual system, which had been based on a geographical territory, the new system was based on ethnic criteria. This meant that people living in the Protectorate who were declared to be ethnic Germans, that is to say, citizens of the Reich, fell within the scope of the Criminal Code of the Reich. Those, on the other hand, who were identified as belonging to a different ethnic group (mostly Czechs), came under the old Austrian Criminal Code. An exception existed, however, when a Czech and a German national were involved in an offence together. In such a case both men would fall within the scope of the Criminal Code of the Reich from 1941 onwards.

Examination of the records of the Criminal Court of Prague<sup>73</sup> show how judicial proceedings against individuals accused of homosexual practices evolved. A five-yearly breakdown of accusations under Article 129.b of the old Austrian Criminal Code between 1898 and 1943 – for the year 1943 it concerns only homosexuals prosecuted under the Protectorate’s legal system – reveals a regular increase in persecution (Figure 5). Relatively moderate at first, in the early years of the First Republic, the number of arrests and convictions rose sharply under the German occupation. So while in 1903 only 40 arrests were made, in 1933 there were more than 80, and in 1943 over 200. Convictions followed

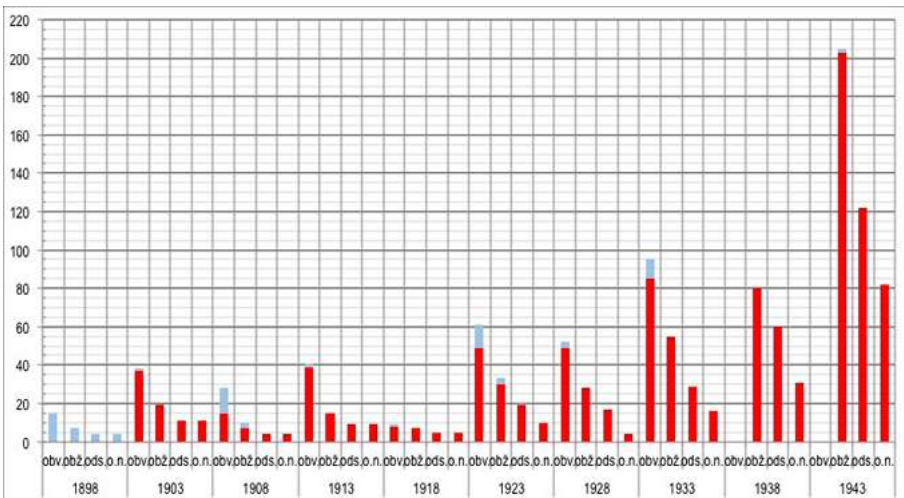
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73. Carried out with the help of my colleague Lukáš Nozar.

the same pattern: rare until 1933, they started to increase in 1938 – with 60 convictions – and rose dramatically with the war to over 120 convictions in 1943.

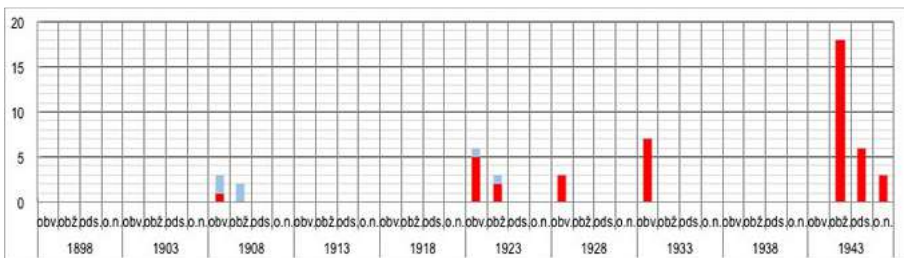
For women, who could also be prosecuted under the Austrian Criminal Code,<sup>74</sup> the pattern was similar although the numbers were much lower (Figure 6). There were more years with no charges at all at the beginning of the period (1898, 1903, 1913 and 1918) than from 1920 onwards when it is the case only for 1938. But as with men, the application of Nazi law caused the number of prosecutions to spike in 1943. Not only were there more convictions, the sentences were harsher, and both the average and the median prison sentence for homosexual behaviour increased sharply (Figure 7). Between 1898 and 1938 the average prison sentence never exceeded six months, but in 1943 it rose to 12 months, revealing a generally harsher approach to the conviction of homosexuals under the Nazi yoke.

**Figure 5: Rate of prosecution of homosexual behaviour of men, Prague Regional Criminal Court**



Key: number of arrests (obv.), individuals charged (obž.), convictions (ods.) and non-suspended sentences (o.n.)

**Figure 6: Rate of prosecution of homosexual behaviour of women, Prague Regional Criminal Court**

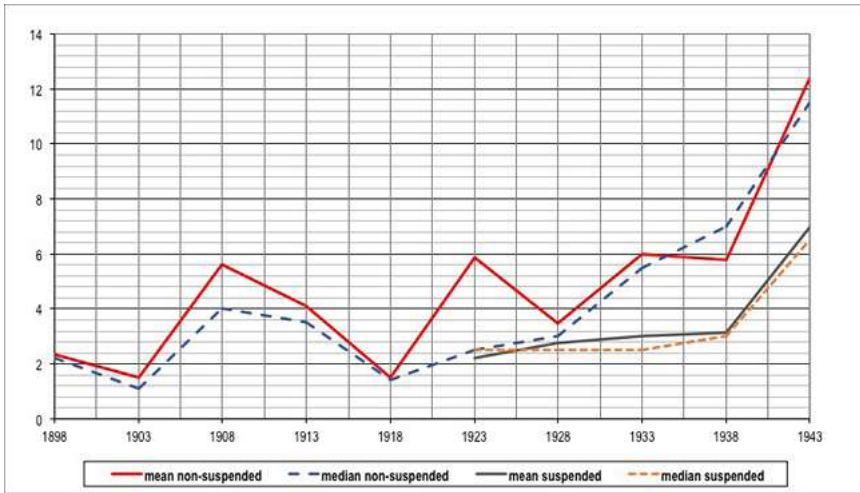


Key: number of arrests (obv.), individuals charged (obž.), convictions (ods.) and non-suspended sentences (o.n.)

74. See the contribution of Johann K. Kirchknopf in this publication.



**Figure 7: Rate of prosecution of homosexual behaviour, Prague Regional Criminal Court**



Key: the different lines represent the mean and median prison sentences, suspended and non-suspended, expressed in months (in order from the top right to the bottom right of the figure: mean length of non-suspended sentences; median length of non-suspended sentences; mean length of suspended sentences; median length of suspended sentences).

Unfortunately, this data is not available for the whole Protectorate. According to the figures of the Statistical Office of the Reich, studied by Grau and Schoppmann, the total number of convictions in the Protectorate for violations of paragraph 175 of the German Criminal Code would have been 210 in 1941; 112 in 1942, including 24 citizens of the Protectorate, 86 Poles and Jews and 2 “pure race Jews”; and 48 in the first half of 1943, including 17 citizens of the Protectorate and 28 Poles and Jews (Grau and Schoppmann 1995: 209).

The above figures show the extent to which the criminal justice system of the Protectorate, while continuing to work in accordance with the structural frameworks of the First Republic (with the same Criminal Code and Code of Criminal Procedure), was led by the Nazi regime to adopt a harsher attitude towards homosexuals. This hardening of the judicial approach vis-à-vis homosexuals during the occupation and its association with the Nazi occupation made it possible for President Edvard Beneš, upon the liberation of Czechoslovakia in 1945, to proclaim the amnesty of prisoners convicted under paragraph 129.b of the law of the Protectorate.

A study of the six records of criminal proceedings kept by the Moravian provincial archives in Brno (referred to at the beginning of this chapter) provides a glimpse of the structural mechanisms of the German criminal justice system in the Protectorate and helps to compare them with those of the criminal justice system of the Protectorate.

The records show that a person tried under paragraph 175 of the law of the Reich could expect a much harsher sentence than if they had been tried for the same offence under the law of the Protectorate and paragraph 129.b. The former law was

always much less favourable to the accused, as a result of the accumulation of penalties applicable to each sexual partner, while the Criminal Code of the Protectorate applied the principle of absorption, and also because in the Criminal Code of the Protectorate there were no aggravating circumstances, such as prostitution or having sexual relations with a minor under 21 years of age, which were taken into account in the Third Reich. On the contrary, the Protectorate judge enjoyed a wide margin of appreciation. This factor is important considering that, according to the investigations carried out by the police authorities, relations between an adult man and a young man under 21 years of age were an extremely frequent occurrence and may even have accounted for a majority of cases in the Protectorate. The investigations also revealed that the principle of a pecuniary reward in exchange for sexual relations was very widespread (but it may be likely that relations in exchange for money were more systematically investigated by the police). Lastly, another specificity is that the Criminal Code of the Protectorate provided for the possibility of suspending a sentence, at least for offences committed prior to 3 May 1942. This was not possible under the law of the Reich.

The difference between the two legislations stems also from the Czechoslovak case law of the 1920s and 1930s. Throughout the First Republic certain lawyers and doctors sympathetic towards the homosexual emancipation movement had managed – especially through various appeals to the Supreme Court – to have the judicial practice amended to either release or suspend the sentences of offenders who had a medical certificate stating that they suffered from an “innate” form of homosexuality. This made it possible to obtain sentences much more lenient than those normally provided for by the law. This case law was not challenged during the occupation. The persistence of the relative tolerance of the pre-war period is even surprisingly manifest in the publication – in January 1942 by one of the principal personalities of the pro-homosexual movement of the First Republic, the lawyer František Čeřovský (1881-1962)<sup>75</sup> – of an article on the “Punishment of homosexuality” in the *Časopis policie a četnictva Protektorátu Čechy a Morava* (Magazine of the police and the military police of the Protectorate) (Seidl et al. 2014a: 117-18). In it he denounced the criminalisation of homosexual acts and called for a reform of the Criminal Code on the subject. The law was not amended, of course, but the article was not censored nor its author taken to task in any way.

## **Homosexuality and deportation**

Did the Nazis make use, in the Protectorate, of extrajudicial repressive measures, such as deportation to concentration camps? Among the files studied by Mark Cornwall (Cornwall 2008) and myself (five individuals tried by the courts of the Reich and three by the German Administrative Court in Prague), none mentioned deportation at the end of the sentence. The same applies to those tried by the courts of the Protectorate: there were no deportations to Nazi camps. Thus, subject to further research, it may be asserted that Czechs accused of homosexuality were not deported on that ground alone.

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75. Franz Schindler (2003) has produced a biography of František Čeřovský.

Several homosexuals were deported because of their political ideas and action, however. The priest Otakar Zdražil (1900-45), an Augustine monk from the monastery in Brno, was sentenced to death on the principal charge of collecting weapons, listening to Radio London and passing on information. His homosexuality was also explicitly taken into account, however, as a secondary charge. Although he seems to have organised a small homosexual resistance group at the monastery, he was the only one sentenced to death and executed (Černý 2014). Another case of a small resistance network whose members were linked together by their association with the homosexual subculture involved that formed in Prague around the lesbian couple Jarmila Řepásková (1911-83) and Ludmila Neumannová (1902-?). The sources are fragmentary, but it appears that they were deported as political prisoners for having sheltered an escaped prisoner, also a homosexual, in 1943 (Seidl et al. 2014b: 263-4).

There are also cases of homosexual members of the resistance who were imprisoned without the police or the judicial authorities ever knowing they were homosexuals. One such case was that of Jaroslav Němeček (1901-65), who in the 1930s was “press officer” of the Czechoslovak sexual reform league. In 1941 he was sentenced by the People’s Court of Berlin to 12 years’ imprisonment for having played an important role in the distribution of the Czech resistance journal *V Boj* (Seidl et al. 2014a: 107-8).

Lastly, some homosexuals were deported because of their Jewish origins. One of these was Fredy Hirsch (1916-44), who died in Auschwitz. A prominent member of the Jewish community of Prague and Theresienstadt, his mission was to improve the living conditions of children in the ghetto (Ondřichová 2001). Another was the lawyer Karl Fein (1894-1942) (Seidl et al. 2014a: 118-19), heir to Karl Giese, who had emigrated from Germany to Czechoslovakia (where he committed suicide in 1938), himself heir to Magnus Hirschfeld. While their homosexuality does not appear to have played a role in the deportation of these two men, the same cannot be said of Willi Bondi (1897-1941). A homosexual Jew from Brno, he was deported to Auschwitz in 1941, a few months before the beginning of the systematic deportation of Jews from that city. The reason for his early deportation was clearly his homosexuality.<sup>76</sup> In 2012, a *Stolperstein* (a commemorative plate), was cemented into the pavement outside the house he lived in, to commemorate his deportation.

Because of the complex profile of the individuals concerned, and the gaps in the sources, it is often difficult to determine exactly why they were deported. The following three cases put the hypothesis that there was no threat to the citizens of the Protectorate of being deported solely on the grounds of homosexuality into perspective.

The first case is that of František Kříž (1920-44), a premonstratensian novice who was expelled from his monastery and became an informer for the Gestapo, feeding them information about his former religious order. Considering him unreliable, the Gestapo had him deported “for homosexuality” to Buchenwald, where he was killed by other prisoners for being an informer. According to Jan Chvatík (2012) the German authorities took advantage of his double conviction by a court of the Protectorate, for homosexuality and theft, to get rid of him once he had served his sentence.

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76. Peter Barber, “Willi Bondi (1897-1941): a family perspective”, lecture given on 18 November 2012 in Brno, an audio recording of which is kept in the collections of the Society for Queer Memory in Prague.

The other two cases concern internments in labour camps run by the authorities of the Protectorate. There were several such camps, better known in the recent historical context as internment camps for Roma people. Because they were run by the Protectorate authorities, not the Reich ones, they occupy an important place in the current public debate of the Czech Republic, a remembrance controversy fuelled by the presence on the site of the former camp at Lety of a huge pig farm founded under the communist regime. In spite of the ongoing controversy, more than two decades later, the Czech Republic has still not closed the farm down. When they were set up, these labour camps were intended to house all sorts of people considered as vagabonds or “ne’er-do-wells”. Among them were two Czech homosexuals: Albín Pleva (1912-?) earned a living as a roving transvestite dancer and occasional prostitute; Bohumil Kosovský (1898-1987), a former activist in the Czechoslovak homosexual emancipation movement, held spiritist séances. These cases prove that extrajudicial persecution of Czech homosexuals did indeed exist when they were considered irredeemable.

### **Lifestyle changes in homosexual communities during the war**

The homosexual condition in the Protectorate was not only affected by aggravation of repression and the introduction of the German Criminal Code. Another – unexpected – factor was the dissolution of the pre-war Czechoslovak army when the Protectorate was established on 16 March 1939.

Various judicial records from before 1939 concern soldiers of that army who, while romantically involved with girlfriends back home, also shared moments of intimacy with homosexual men in the places where they were stationed, in exchange for money (Seidl et al. 2014b: 243-5). Many homosexuals are even believed to have preferred spending an evening with a soldier rather than an “ordinary” male prostitute, be it because they were attracted by the uniform or because they assumed soldiers would be more discreet because it was not in their interest to be unmasked as prostitutes and they would be less likely to have time to engage in blackmail attempts.

When the army was disbanded these former soldiers went back to their families and were soon replaced on the male prostitution market by other, even younger men, often barely fifteen years old, many of whom were poorly paid apprentices in need of extra cash. In Prague their main hunting ground was the Koruna shopping centre in Wenceslas Square (Seidl et al. 2014a: 57-9), a modern, early 20th-century palace that combined in one space a shopping arcade, a cafeteria on the ground floor and baths in the basement, all three of which were very popular at the time. This is where young men gathered in the hope of meeting potential clients. When they met a client and struck a deal sexual relations would take place in one of the bathing cubicles, or outside, on a nearby street corner or in one of the local parks. The curfew imposed at nightfall during the war shrouded the city in darkness, which considerably simplified these relations in the open air.

This type of homosexual intercourse already existed before the war, with blackmail by the young prostitutes as a corollary. One famous case made the news in 1926: the manslaughter of the ill-reputed prostitute and blackmailer Tonda Tričko (“T-shirt

Tony”) by a former client he was blackmailing. The court eventually found the murderer not guilty (ibid.: 153-4). With the war both prostitution and blackmailing escalated. The archives reveal that the longer the conflict went on and the standard of living of the population deteriorated, the more the German and the Protectorate police and courts focused their attention on combating blackmail by prostitutes of their clients rather than on punishing homosexual activities as such. The prostitutes were generally organised into gangs: an experienced leader around 20 years old would teach the younger recruits the tricks of the trade and send them out to “work”. Records reveal the cases of two gangs of blackmailing prostitutes who were all tried together, along with their clients and victims. In one case, that of the Karel Seifried gang (ibid.: 42-3), the blackmailing prostitutes were sentenced by a Protectorate court to much harsher prison sentences than their clients and victims. Interestingly, after 1945, the gang members concerned, who were still in prison, were denied amnesty because their convictions under the occupation had been in conformity with the laws of Czechoslovakia in terms of the length of the sentences pronounced, and the offences had not been committed with a view to liberating the Republic. In the second case the gang of Václav Bárta was sentenced to death by a German court, with immediate effect (Cornwall 2008). The German authorities wanted to show their determination to rid the nation of what the regime saw as a “scourge”.

To conclude with the Koruna shopping arcade, which features prominently in the judicial archives: it was one of the principal theatres of the sociability of homosexuals along with several bars in Prague. One was the U Zlatého bažanta (Golden Pheasant) bar (Seidl et al. 2014a: 93-5) in the Vinohrady district, whose doorman only let in clients he knew or who seemed to him to be “sufficiently” homosexual. There were also certain cafés that served as meeting places for homosexual men and women, such as the upmarket Evropa cafe in Wenceslas Square (ibid: 52-5). As for establishments catering more for a lesbian clientele, some sources suggest that this was the case of the Zdeňka (Sidonia) cafe next to Prague’s Denis railway station (ibid.: 38-9).

All in all, then, the homosexual scene, not only in Prague but also at least in Brno, lost little, if any, of its pre-war vibrancy. It may have been more risky to be a part of that scene, but many men and women carried on as before, oblivious to any increased risk. Many sources show evidence of carefree, even happy homosexual existences at the height of the occupation. However, as is only logical when one relies on judicial archives, this individual insouciance was soon dashed when the police caught up with them. Those who were fortunate enough to steer clear of the watchful eye of the German or Protectorate authorities left no traces in the archives and their story is largely untold.

The situation of homosexuals in wartime Bohemia and Moravia illustrates the complexity of the legislation systems in force in one and the same territory. The cases we have looked at more closely, from archives of the court of the Protectorate of Prague, show that justice was harsher towards homosexuals in wartime. This increased repression led to more arrests of both men and women. The length of the sentences pronounced also increased considerably. The research also reveals that the justice dispensed by the Reich in the Protectorate was harder on German offenders than that of the Protectorate on Czech offenders, largely as a result of the structural differences between the two legal systems. In a very large majority of cases Czech

“homosexuals” were sentenced to imprisonment, with very few cases of deportation to a labour camp in the Protectorate. Lastly, the archives show that Jewish homosexuals and homosexuals in the resistance movement were deported on both grounds. Much research still remains to be done, however, to paint a more accurate picture of the forms taken by the repression of homosexuality in the former Czechoslovakia.

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## Chapter 5

# Being homosexual in Alsace and Moselle during the *de facto* annexation from 1940 to 1945

Frédéric Stroh

**H**omosexuals in Alsace and Moselle lived in a favourable legal environment prior to the French defeat and the German annexation of June 1940.<sup>77</sup> The French Criminal Code in force there did not criminalise homosexual relations.<sup>78</sup> Older members of the population still remembered the first German annexation (1871-1918), during which homosexuality had been punishable under paragraph 175 of the German Criminal Code (*StGB*), which criminalised “unnatural acts” (*widernatürliche Unzucht*). As in the rest of the German Empire, convictions in the civil courts had been rare, however, and the penalties slight, especially during the First World War. According to the judicial statistics of the imperial administration, there were 144 charges and 114 convictions for homosexuality in the Reichsland of Alsace-Lorraine between 1902 and 1913.<sup>79</sup>

During the Second World War, a new period of German domination opened up for homosexuals in Alsace and Moselle, this time marked by National Socialism, which was known to have been particularly repressive towards German homosexuals, at least since 1935. However, the legal and administrative context in annexed Alsace and Moselle was not the same as in the Reich. These territories had been annexed *de facto*, which means that the annexation was not recognised by the international community; they were placed under the authority of a German civil administration headed by two *Gauleiter*: Robert Wagner (Alsace) and Josef Bürckel (Moselle) (Kettenacker 1978; Wolfanger 1982). As a result, the inhabitants of these territories were actually considered “Germans by blood” (*Volksdeutsche*), but not as German citizens (*Reichsdeutsche*). The French Criminal Code continued to apply there until

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77. The author used the following sources in this text: the Archives of the *Départements* of Bas-Rhin (ADBR), of Haut-Rhin (ADHR) and of Moselle (ADM); the National Archives (AN); the Archives Division of the Victims of Contemporary Conflicts (DAVCC); *Generallandesarchiv* Karlsruhe (GLAK); and *Staatsarchiv* Freiburg/Brsg (StAF).

78. In France, homosexual relations were completely decriminalised in 1791 by the revolutionary Constituent Assembly, and the Napoleonic Criminal Code of 1810 maintained this innovation until 1942.

79. Kaiserliches Staatistisches Amt, *Statistik des Deutschen Reiches, Neue Folge, Kriminalstatistik*, Berlin, from No. 155 of 1904 to No. 297 of 1921. For a statistical breakdown of judicial repression across the empire, see Hoffschilt (2002).



1942, alongside the German Criminal Code, which was brought into force gradually from 1941 onwards. This mixture of legal and administrative systems midway between the Reich and France seems to have had consequences on the lives of homosexuals in Alsace and Moselle during the Second World War that distinguished them from both their German and their French counterparts.

In order to clarify this possible singularity, we shall begin by analysing the repression, both extrajudicial and judicial, of homosexuals in the annexed territory and comparing it with that practised in Germany and in occupied France. Then we shall look at the conduct and attitudes of Alsatian homosexuals in the face of the repression, through their social profile, their image of themselves as suggested by the judicial archives, and their behaviour during the annexation. We shall only cover male homosexuality here, however, which was the only type actually criminalised under the German Criminal Code.

### **Forms of repression of homosexuals in the annexed territory**

Historian Cédric Neveu identifies 23 men detained for homosexuality in annexed Moselle. He accordingly states that “repression under §175 was an extremely marginal phenomenon” there (2012: 120). A search of the police, judicial and prison archives from Alsace, on the other hand, reveals the names of 351 men detained for homosexuality in annexed Alsace, not counting the Struthof concentration camp. The difference could possibly be explained either by the partial disappearance of sources in Moselle, or by a difference of policy between the administrative, police and judicial authorities of the two territories.

### **Extrajudicial repression**

Although Alsace and Moselle were annexed as early as June 1940, the heads of the civil administration opted for the gradual introduction of German law. The judicial repression of homosexuality does not seem to have been a priority for them as, unlike the laws on political, economic and racial crimes and offences, paragraphs 175 and 175.a *StGB*<sup>80</sup> were not introduced by any particular decree but simply entered into force along with the rest of the German Criminal Code in 1942, in February in Alsace and in May in Moselle (Kettenacker 1978: 120; Wolfanger 1982: 169). However, the fact that French law continued to govern moral matters did not prevent the German administrative authorities and police from clamping down harshly on homosexuality in the summer of 1940. While the extrajudicial measures they implemented made up for the lack of proper legislative instruments, they were also designed, as in the Reich itself, as an alternative and, from 1942 onwards, a complement to the judicial measures, which were often considered insufficient.

As on the other side of the Rhine, the German police proceeded to draw up a list of homosexuals in the annexed territories. In November 1940, the commander of the

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80. Paragraph 175 *StGB* (offence), in its harsher version of 1935, punished any type of sexual act between men with imprisonment, and paragraph 175.a *StGB* (crime) with hard labour, or imprisonment in cases deemed minor, or those where force was used to commit acts against a dependent person or someone under 21 years of age, or where the act was committed for money.

security police (*Sicherheitspolizei*) in Strasbourg asked the different cantonal authorities to make a list of all those living in the Bas-Rhin *département*. A similar measure was ordered in Moselle in July 1942 (Neveu 2012: 120). Contrary to what certain witnesses reported after the war (Erremann 1983; Seel 1994: 25, 34-5), these lists do not seem to have been based on lists of homosexuals previously held by the French police. It is nonetheless possible that French police or judicial archives concerning individuals convicted before the war in connection with homosexual relations, for example for public acts of indecency, were used. In April 1942, the police in Alsace informed the Reich Main Security Office (*RSHA Amt V*) that “new operations are under way following the feedback from criminal records in Alsace” (Grau 2004: 275). Furthermore, local police who remained in post and others who rallied to the new regime may also have contributed to this intelligence work. The Strasbourg criminal police (*Kriminalpolizei*) affirmed, for example that a certain Joseph R. was reputed to have been a homosexual before the war.<sup>81</sup>

This listing of homosexuals led initially to the expulsion of hundreds of individuals, sometimes with their wives, to non-annexed France, or a ban on their re-entering Alsace-Moselle. The head of the Strasbourg *Sicherheitspolizei* reported that between 1 July 1940 and 1 March 1943, 91 homosexuals were expelled from Alsace and 160 did not return from what was known as “inner” France (the part not annexed by the Germans) (Vonau 2010a: 28-9). These figures seem to be an underestimate, contradicted as they are by subsequent or local reports. For example, the civil administrative authorities in Alsace stated in a report addressed to Martin Bormann on 21 April 1941 that 161 homosexuals had already been expelled by 15 February 1941.<sup>82</sup> Such measures, ordered by the administrative authorities and implemented by the police, did not exist on any large scale on the German side of the Rhine as they targeted foreign nationals.<sup>83</sup> The ambiguous status of the inhabitants of Alsace and Moselle, however, who were considered by the German authorities as French citizens but members of the German people (Nonnenmacher 1965), did allow such measures to be used on a much larger scale in the annexed territories. So these measures were characteristic of a context of annexation and were not restricted to punishing homosexuals. They were part of the broader policy of “purification” (*Reinigung*) of the annexed population, which also targeted racial groups considered undesirable and political dissenters. In so far as Josef Bürckel resorted to this type of measure in Moselle more than Robert Wagner in Alsace (Wilmouth 2012: 54), it is possible that larger numbers of homosexuals were expelled from Moselle than from Alsace. This could help explain why there appear to have been so few convictions under paragraphs 175 and 175.a *StGB* in annexed Moselle.

Homosexuals were not systematically expelled, however. The fact that homosexuals in Alsace and Moselle were considered part of the *Volksdeutsche* was constantly weighed against their deviant sexual conduct. Only those the authorities considered

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81. Record of an investigation by the Strasbourg *Kriminalpolizei* into Josef R., dated 3 April 1942 (Bas-Rhin departmental Archives [ADBR], 1134W20).

82. ADBR, 125AL394.

83. For example, the Czech citizen Rudolf Brazda was expelled from the Reich in 1937 after serving six months in prison for homosexuality. See Schwab and Brazda (2010: 67).

unlikely to achieve any kind of “improvement” (*Besserung*), that is to say those for whom homosexuality was not merely a practice but a part of their personality, of their very nature, or entrenched by years of constant practice, appear to have been considered unworthy of belonging to the “people’s community” (*Volksgemeinschaft*) and sentenced to expulsion.<sup>84</sup> The others were sent to camps for re-education, or even released if their offences were long past or deemed unimportant. After 1942 the expulsion of homosexuals seems to have petered out, although the opposition to the policy of expulsion on demographic grounds mainly concerned political dissenters. Indeed, as late as the summer of 1942 Hitler and Himmler considered that “social misfits”, “criminals” and the “incurably mentally ill” should be expelled from the territory (Kettenacker 1978: 135-7). Yet this paradigm shift led during the second half of the annexation to the increasing application in Alsace and Moselle of the repressive methods used in Germany, in particular internment in camps.

In autumn 1940, the public prosecutor of the regional court (*Landgericht*) in Colmar announced to the police that he could not issue arrest warrants against homosexuals in Colmar as long as French law remained in force in Alsace.<sup>85</sup> As in the Reich proper, however, the police could make arrests without any formal judicial framework, by virtue of a series of decrees regulating crime prevention (Wagner 1996). In practice, the use of these measures intensified with the war. They did much more than merely make up for the lack of proper laws to punish homosexuality. They made it possible to inflict harsher treatment on homosexuals than in the ordinary prison system overseen by the judiciary. And indeed, even after the legislative switch in 1942 they continued to be used in Alsace, for example to impose harsher penalties, as they were in Germany (von Bülow 2000: 84-125, 311-27).<sup>86</sup>

Extrajudicial detention took place mainly in the Schirmeck “re-education camp” or “security camp” (*Erziehungslager, Sicherungslager Vorbrück*), opened in Alsace in the summer of 1940 and placed under the control of the police and Robert Wagner (Vonau 2010b). In all, it is estimated that some 15 000 individuals were held there during the war. The archives mention the names of 81 men, from 14 to 69 years of age, arrested for homosexuality and sent to the Schirmeck camp (at least 80% of whom had been born in Alsace).<sup>87</sup> It would appear, however, that there were many more. In September and October 1940 alone, for example, 45 homosexuals held in Mulhouse prison were transferred there.<sup>88</sup> Among them was Marcel D., a young man of 26 who claimed that he had not had sexual relations with a man for four years, but was considered by the police “a true homosexual” who “must have indulged in

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84. “Festnahme von Homosexuellen”, Mulhouse police report of 17 October 1940 (ADBR, 98J/vrac1).

85. Colmar police file on Karl J. (Haut Rhin departmental archives [ADHR] Purg. 113 407).

86. Unpublished doctoral thesis defended on 10 July 2000 at the Carl von Ossietzky university in Oldenburg.

87. Comparison of police, judicial and prison sources kept in the departmental archives of Alsace and the partial database on detainees at the camp put together by the Mémorial de l’Alsace-Moselle. The exact number of detainees for homosexuality remains unknown because of the destruction of a large part of the camp’s archives and the quasi-silence of the remaining sources as to the grounds of internment.

88. Mulhouse police archives: letter of 1 September 1940 to the Schirmeck camp commander, and the “Festnahme von Homosexuellen” report.

such activities until recently”.<sup>89</sup> It was not necessary to establish proof of homosexual activity to justify detention; a man’s homosexual nature was also defined and punished by the police. The detainees held in Schirmeck for homosexuality were made to wear a light blue square badge, like the “social outcasts”, priests and male and female prostitutes. They were held there pending their expulsion to non-annexed France, like Alfred N., who was arrested in 1941 and expelled in May 1942,<sup>90</sup> or to undergo re-education by dint of hard labour and brutal detention conditions. At least two detainees aged 46 and 58 and held there for homosexuality died.<sup>91</sup> Internment in Schirmeck could replace a judicial conviction, as in the case of Pierre Seel, detained from May to November 1941 (Seel 1994), or be an additional penalty, as in the case of Eugène E., who was sent there in April 1944 after serving a two-year prison sentence in Mulhouse.<sup>92</sup> If certain detainees were eventually released, others were transferred to concentration camps. Georges R., for example, who was arrested in November 1942 in Mulhouse on “suspicion of unnatural sexual behaviour” was transferred in May 1943 from the Schirmeck re-education camp to the Struthof concentration camp and then on to Buchenwald.<sup>93</sup> The fact that he was considered a “habitual offender” (*Gewohnheits-verbrecher*), that is, under the law of November 1933 (von Bülow 2000: 152-9, 173-86), a repeat offender with an “inclination” (*Hang*) to commit the offence, in this case homosexuality, no doubt explains this fate.

The Struthof concentration camp (*Konzentrationslager Natzweiler*), which would house up to 52 000 detainees, was opened in May 1941 and placed under the control of the SS (Steegmann 2005). Historian Robert Steegmann identifies 227 men interned there for homosexuality, while Boulligny, Hoffschilt and Schwab reached a figure of 312 (92% of whom were German citizens).<sup>94</sup> Among the 14 French detainees identified, 10 were Alsatian and 3 from Moselle (Boulligny 2010: 62). The Victims of Contemporary Conflicts archives of the Defence of Caen History Department make it possible to retrace the steps of some of these individuals. An Alsatian man by the name of Edouard M. was sentenced by the Strasbourg *Landgericht* in March 1942 for violating paragraphs 175 and 175.a *StGB* to a year and a half of hard labour, a sentence he served in Mulhouse prison then in Bruchsal, before being transferred to the Struthof camp in December 1943 as inmate number 6611 in the homosexual category.<sup>95</sup> Some were transferred from Struthof to the Dachau or Buchenwald

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89. Ibid.

90. Alfred or Albert N., born on 2 August 1915 in Schiltigheim (ADBR, 757D97, Kleinmann Fund).

91. Michael G., born on 11 July 1896 in Schoenenbourg and died on 21 November 1942 (ADBR, 757D88, 1184W67, 1184W65.2, 98J/vrac20); Josef or Karl R., born on 26 June 1885 in Brumath and died on 9 March 1944 (ADBR, 1184W65.2, 1243W245).

92. Eugène E., born on 19 December 1912 in Erstein (ADBR, 757D85, 1243W242-244, 1349W27, Kleinmann Fund).

93. Georges R., born on 15 December 1900 in Strasbourg (ADBR, 757D100, 98J/vrac19, 150AL3; ADHR, AL76867; DAVCC, status file).

94. The Robert Steegmann database is the provisional result of research Steegmann is carrying out in the concentration camp archives, and has not been published. The figure of 312 detainees for homosexuality arrived at by Boulligny, Hoffschilt and Schwab was presented in the framework of the “Deportation on grounds of homosexuality” exhibition organised in 2013 by the association Les oublié-e-s de la Mémoire, for which no catalogue was published.

95. Edouard M., born on 9 May 1886 in Schiltigheim (ADBR, 1243W243 and 244; DAVCC, AC27P26258).

concentration camps, like Lucien S. from Moselle, who was found guilty of indecent behaviour in 1942 by the *Landgericht* in Metz, sentenced to 8 months' imprisonment and transferred to the Struthof camp in November as inmate number 1535 in the "BV 175" category, then to Dachau in December as inmate number 40995.<sup>96</sup> Of the 14 known French detainees held in Struthof, 9 would die. One of them was Jean O. from Alsace, who was detained in Mulhouse prison for unnatural sexual acts, then in January 1943 placed by judicial decision in the psychiatric centre in Hoerdt before dying in the Struthof camp in June 1944 after three months' detention there.<sup>97</sup>

There is no denying that it was essentially the re-education camp at Schirmeck that was to play the role in respect of Alsatian homosexuals that was played by the Nazi concentration camps in respect of homosexuals in Germany. There was nothing specifically anti-homosexual about this, Wagner having generally opposed the sending of large numbers of Alsatians to concentration camps, in spite of Himmler's insistence (Kettenacker 1978: 125). It is impossible, however, to compare the rate of internment of Alsatian homosexuals in the Schirmeck re-education camp with that of German homosexuals in concentration camps, because of the lack of reliable data.

## Judicial repression

During the initial phase of the annexation (1940-41) there was virtually no judicial repression of homosexuality in Alsace and Moselle. The French Criminal Code, which ignores homosexuality as such, remained in force and appears not to have been interpreted extensively. The application of Article 330 of the French Criminal Code (on public acts of indecency) by the *Landgericht* in Strasbourg mainly concerned cases of heterosexual relations.<sup>98</sup> The rare cases of homosexual relations punished under Article 330 concerned acts committed in public places or before unwitting third parties.<sup>99</sup> The order of the head of the civil administration in Alsace in January 1941, creating a first criminal section in the *Landgericht* court in Strasbourg that would apply German law exclusively, only marginally changed the situation of homosexuals in Alsace. Only six men, five of whom were born in Alsace, appeared before it under paragraphs 175 and 175.a between May 1941 and the beginning of February 1942.<sup>100</sup> Although these laws are not explicitly mentioned in the list of this new court's powers, prosecutors were able to use them because of a clause in the order that specified that the court could also judge any crimes and offences they considered should be punished under German law "in view of the gravity and

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96. Lucien S., born on 15 October 1879 in Dieuze. See Moselle departmental Archives [ADM], 1386w29; DAVCC, AC27P10, C27P11; Neveu (2012: 119-20); Robert Steegmann database.

97. Jean O., born on 21 March 1923 in Didenheim (DAVCC, AC21P521998).

98. The analysis of the activity of the Strasbourg *Landgericht* is based on a study of the judgments conserved under references ADBR, 1243W236-257 and 167AL1-58.

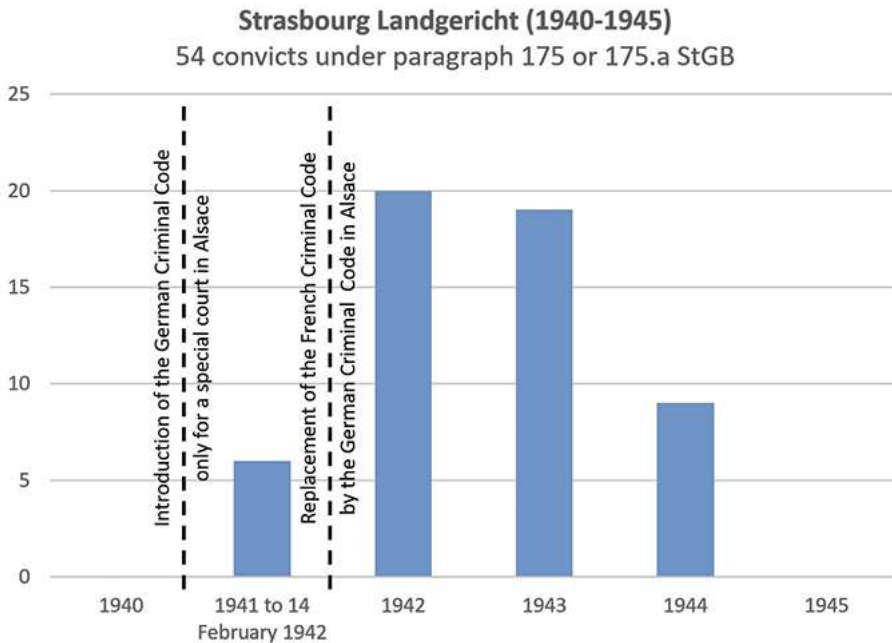
99. Judgments No. 5115/41 dated 30 September 1941 (ADBR, 1243W241) and No. 4298/41 dated 17 October 1941 (ADBR, 1243W238).

100. Judgments No. 37/41 dated 6 May 1941, No. 38/41 dated 30 October 1941 (ADBR, 167AL2) and No. KLs.192/41 dated 6 February 1942 (ADBR, 1243W243).

reprehensible nature of the deeds, because of the public emotion they triggered or because they were a serious threat to security or public order”.<sup>101</sup>

The small number of cases tried seems to indicate that the prosecutors in post in Strasbourg were not particularly interested, in 1941, in prosecuting homosexual practices, even though they enjoyed a certain freedom of action. Only with the complete replacement of the French Criminal Code by the German Criminal Code, following an order of 30 January 1942,<sup>102</sup> did the judicial repression of homosexuality in Alsace really begin (see Figure 8). Although this order did not enter into force until 15 February 1942, it stipulated that offences committed prior to that date could be prosecuted under German law. Albert F., for example, was convicted by the Strasbourg *Landgericht* on 6 March 1942, under paragraph 175.a, for acts committed in early January.<sup>103</sup> Tamagne describes a similar case of retroactive application of the criminal law in the Sudetes, from 1939, and Schlagdenhauffen sees it specifically as “one of the arbitrary effects of the annexation” (Tamagne 2000: 558-9; Schlagdenhauffen 2014: 89-93).

**Figure 8: Convicts of the regional court of Strasbourg**



Analysis of the judgments of the Strasbourg *Landgericht*, the only ones in Alsace to have been preserved to a large extent, reveals that at least 54 men (80% of whom were born in Alsace) were tried and convicted there under paragraph 175 or 175.a. Two of

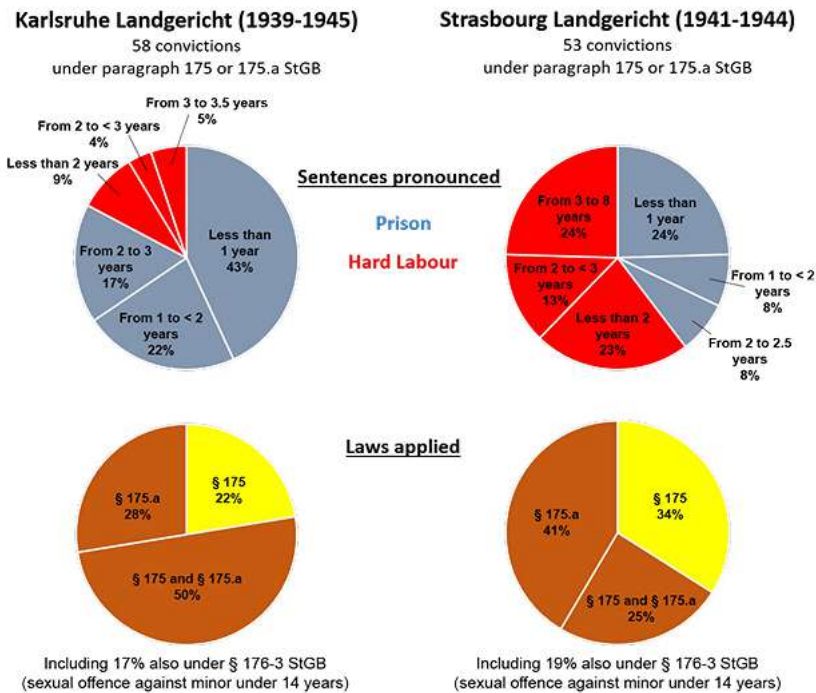
101. “Verordnung über vorläufige Maßnahmen auf dem Gebiete der Strafgerichtsbarkeit im Elsass vom 10. Januar 1941”, in *Verordnungsblatt des Chefs der Zivilverwaltung im Elsass*, No. 3, 1941, pp. 33-4.

102. “Verordnung über die Einführung des Strafgesetzbuchs für das Deutsche Reich ... im Elsass ... vom 30. Januar 1942”, in *Verordnungsblatt des Chefs der Zivilverwaltung im Elsass*, No. 5, 1942, pp. 64-5.

103. Judgment No. 3KLs.4/42 dated 6 March 1942 (ADBR, 1243W243).

those appeared a second time on appeal. In one case only, the judges decided not to sentence the accused, considering that, although guilty, he “had been abused against his will”.<sup>104</sup> Examination of the 53 sentences handed down shows the severity of the Strasbourg *Landgericht*, particularly in comparison with the Karlsruhe *Landgericht* in south-west Germany (see Figure 9):<sup>105</sup> 60% of the sentences pronounced by the *Landgericht* in Strasbourg were for hard labour, compared with only 18% for the *Landgericht* in Karlsruhe. However, the rates of recourse to paragraphs 175.a and 176-3 (paedophilia) are relatively similar: respectively, 66% and 19% in the Alsatian court and 78% and 17% on the German side. Even if the judges on the German side of the border tended during the war to increase the penalties imposed on homosexuals, as did all the German courts (von Bülow 2000: 201), the sentences were still less harsh than those imposed in Alsace. So the severity of the Strasbourg court is no doubt attributable less to the war context than to the annexation. Considering which laws were brought into play, the judges in Strasbourg appear to have behaved more in conformity with the spirit of the law by almost systematically punishing violations of paragraph 175.a *StGB* with hard labour, while the judges in Karlsruhe often found mitigating circumstances and frequently imposed mere prison sentences. Two reasons may explain this disparity: only cases considered to be particularly serious were tried in Alsace, or the judges in post in Strasbourg, of their own volition or under pressure from the judicial or administrative authorities, felt obliged to dispense justice intransigently in view of the objective of the rapid Germanisation of Alsace imposed by Hitler and Robert Wagner.

**Figure 9: Convictions by the regional courts of Strasbourg and Karlsruhe**



104. Judgment No. 2KLs.25/42 dated 7 July 1942 (ADBR, 1243W246).

105. Records of proceedings of the *Landgericht* in Karlsruhe (GLAK, 309 Karlsruhe-7468 à 7491).

Sometimes the prosecution brought the case before the special section (*Sondergericht*) of the Strasbourg court. Emile S., for example, was tried simultaneously for homosexuality and crimes against the wartime economy, which gave the judges an opportunity to draw an analogy between the homosexual and the black marketeer:

The picture the accused gives us is absolutely repugnant. Just as he has sunk morally into his sexual aberration, he has plied his trade just like a typical black marketeer.<sup>106</sup>

Certain individuals from Alsace and Moselle were also brought before military courts on charges of homosexuality, compulsory military service having been introduced in the annexed territories in summer 1942. Only special research in the German military archives would allow us to verify the existence of such trials, however. Lastly, Alsace was placed under the jurisdiction of the Stuttgart *SS- und Polizeigericht XI*, which met in Strasbourg on several occasions and considered itself competent to judge Alsatian members of the air-raid protection police (*Luftschutzpolizei*).<sup>107</sup> But while the SS judges sentenced the German policeman (*Schutzpolizei*) Josef M. in post in Strasbourg to death in 1942 under the Führer's decree of 1941 on *Reinhaltung der SS und Polizei*,<sup>108</sup> they only sentenced the Alsatian *Luftschutzpolizei* Paul B. to four years' hard labour, considering that he did not belong to the police *stricto sensu*. The SS judges from Stuttgart would thus appear to have been more lenient in their application of the law to Alsatians than the civilian judges of the *Landgericht* in Strasbourg. This finding raises questions about the individuals involved and the thinking behind the repression in annexed Alsace.

## Those involved and discourses of the repression

The repression of homosexuals in annexed Alsace was carried out by the same people as in the Reich. It was the criminal police (*Kriminalpolizei*) and the political police, the Gestapo (*Geheime Staatspolizei*), who as early as 1940 conducted investigations, arrests, expulsions and detentions. Initially, they were not acting under orders from prosecutors but from the head of the civil administration and the commander of the *Sicherheitspolizei* in Alsace.<sup>109</sup> The judiciary was not really instrumental in the repression until the German Criminal Code was fully brought into force in January 1942. Its ranks included former French civil servants of Alsatian origin (Bene 1980). Edouard E., for example, was appointed *Landgerichts-direktor* in Strasbourg after resigning in January 1941 as an investigating judge in Valenciennes.<sup>110</sup> He presided over 14 trials for homosexuality between November 1942 and April 1944. Judicial repression was not just the work of a few individuals, however; 9 prosecutors and

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106. Judgment No. SO.KLs.30/43 dated 16 March 1943 (ADBR, 1243W250).

107. "Gerichtsbarkheit der SS und Polizei" file (ADBR, 126AL2527).

108. Case referred to in judgment No. 2KLs.46/42 dated 4 November 1942 (ADBR, 1243W242).

109. See, for example, the order of the German police in Alsace dated 18 November 1940, concerning the expulsion of undesirables: "Erfassung zur Abschiebung. Verfügung des Befehlshabers der Sicherheitspolizei Strassburg vom 18. November 1940. Betr.: Berufsverbrecher, Asoziale, Homosexuelle, usw.," in Grau (2004: 271-2).

110. Career record and personal file of Edouard E. (AN, 20030033/62, 19940515/1, 19770067/157, BB/6(II)/1295).



22 judges took part in 42 trials for homosexuality at the *Landgericht* in Strasbourg during the annexation. Some Alsatian police officers also remained in post and may have been required to carry out investigations and testify against the accused by attesting to their reputation as homosexuals under the French period. That seems to have been the case of police assistant (*Krim. Assistent*) H. He stated in court that a certain Robert S. had already been “known to the police prior to the annexation as the most depraved homosexual in Strasbourg”.<sup>111</sup> These state employees were assisted by part of the population, who willingly reported homosexuals. A number of arrests were made as a result of confessions made by sexual partners during interrogations, or information spontaneously provided by neighbours, colleagues or even relations. For example, a German lady called Charlotte M. reported her policeman husband Josef M. to his superiors for leaving home and moving in with another man, while an Alsatian by the name of Alfred R. was reported to the police by an anonymous letter.<sup>112</sup> People who rallied to the German cause also had a hand in drawing up lists of people who were expelled. The county leader (*Kreisleiter*) of Thann in July 1940 and of Colmar in March 1942 asked the mayors and the block leaders (*Blockleiter*) to draw up lists of “social misfits” (Bopp 2011: 105).

Those responsible for the repression did not merely rule on the facts of the case. They also set out to define “homosexual nature”, to serve them as a guide in their repressive actions, particularly when sentencing (Schlagdenhauffen 2014). As in the Reich, the treatment varied depending on how the authors of the repression pictured the accused: those they considered incapable by their very nature of any “improvement” (*Besserung*) were generally thrown out of the territory or, later on, placed in medical centres, or even concentration camps, while the others were sent to prison or to the re-education camp in Schirmeck to serve sentences the length of which varied with how serious the deviancy was considered to be. Attitudes to homosexuality and those who practised it did not differ much between annexed Alsace and Germany (Micheler 2005). In both cases, the judges distinguished between innate and acquired homosexuality, fearing the contamination of young men by “seducers” (*Jugendverführer*) and identifying “avowed homosexuals” (*ausgesprochene Homosexuellen*) by their effeminate behaviour. For example, Ferdinand H. was described in his judgment as “displaying feminine traits, in both body and mind” which appeared to indicate a “model disposition for homosexual relations”.<sup>113</sup> It should be noted that certain police officers and judicial officials in post in Alsace during the war came from Germany, but those of Alsatian origin who remained in post had belonged in the period between the wars to a French police and judicial corps that held partly similar conceptions, even though homosexuality was not a crime.<sup>114</sup> There was no difference between the repressive discourse on homosexuality in Germany and in annexed Alsace. For example, there was no convergence of homophobic and Francophobe discourses. While homosexuality was traditionally claimed to have come from abroad, at no time did the judges suggest that Alsatian

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111. Judgment No. KLS.192/41 dated 6 February 1942 (ADBR, 1243W243).

112. Judgment No. KMS.11/43 dated 9 July 1943 (ADBR, 170AL611).

113. Judgment No. 2KLS.14/43, 12/43, 8/43, 5/43 dated 14 April 1943 (ADBR, 1243W247).

114. Tamagne (2000) speaks, *inter alia*, of a “certain homophobia in the judiciary and the police in France during the interwar period”.

homosexuals were a manifestation or the result of French degeneracy. They did, however, occasionally consider the French origin of the accused as a mitigating circumstance,<sup>115</sup> as in the trial of Pierre K.: “it must be said in the accused’s favour that he does not perhaps fully realise the gravity of his act because such offences are not punishable under French law”.<sup>116</sup> A comparison of the sentences handed down in Alsace and those on the German side of the border reveals that this type of reasoning was not generally applied.

## **The life of homosexuals in annexed Alsace**

The homosexuals tried by the *Landgericht* in Strasbourg, like all those detained in Alsace, except in the Struthof camp, were for the most part French citizens considered because of their origin as belonging to the German people. At least 75% of the 351 detainees were born in Alsace or Moselle, while only 12% were born in Germany, 2% in Switzerland and 1.7% in “inner” France. Others came from Czechoslovakia or Italy. They were between 14 and 74 years old, but the average age of the individuals tried in Strasbourg was 38, the youngest being 17. While most of the men tried were single, 30% were married or widowers. Some were also fathers. Most of them were working class (Schlagdenhauffen 2014: 86-7). The fact that the upper classes were hardly represented at all might be explained by a less visible form of homosexual behaviour, which would have protected them from the repression.

While the police and the judges seem to have sought medical grounds on which to base their repression of homosexuality, according to the transcriptions of their statements as recorded in the court judgments most of the men tried in Alsace for homosexuality did not appear to consider themselves as homosexuals, at least in front of their judges. Only 9 of the 54 who appeared before the *Landgericht* in Strasbourg admitted that they were exclusively homosexual and 3 described themselves as bisexual. These individuals either identify themselves as homosexuals or refer to their feelings in more oblique terms, saying that they feel a sexual attraction or affection for men, or acknowledging that they have sexual relations with men. For example, Roger E. said that he was “not homosexual, but often had moments when he was attracted to men”,<sup>117</sup> and Albert L. referred to “a sexual desire [for men but] with no particular affection”.<sup>118</sup> These two men clearly distinguished their identity from their emotions or their actions. This did not prevent them from talking about their lives in a relatively positive manner, and while many said they regretted what they had done, they probably did so in the hope that it would count in their defence. Only two men said they suffered from their homosexuality, which they perceived as a form of illness. And lastly, four of the men tried considered themselves heterosexuals, without actually using the term. They claimed they had acted under the influence of alcohol, or just for fun (*Spass*). In more than 70% of cases the accused

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115. In a similar vein German military judges would sometimes consider in the accused’s favour that the laxness of French education explained the insubordination of the people of Alsace and Moselle vis-à-vis German military service. See Stroh (2006: 135-7).

116. Judgment No. 2KLs.54/43 dated 27 October 1943 (ADBR, 1243W248).

117. Judgment No. 2KLs.14/43, 12/43, 8/43, 5/43 dated 14 April 1943 (ADBR, 1243W247).

118. Judgment No. 3KLs.30/43 dated 16 July 1943 (ADBR, 1243W251).

offered no definition of themselves. This may be explained by the failure of the clerk of the court to fully transcribe the statements of the accused, or of the court to ask the right questions. But it may also have been a defence strategy on the part of the accused, or they may simply have been unable to define their identity. However, the idea that the judicial context alone might have deterred the accused from admitting to their homosexuality, and in particular identifying themselves as homosexuals, has to be put in perspective. In comparison, on the German side of the border certain accused individuals willingly identified themselves as homosexuals, often influenced by the theories of Magnus Hirschfeld or Adolf Brand, two defenders of the homosexual cause. The shopkeeper Paul H., for example, who was also a reader of and contributor to the homoerotic German magazine *Das Freundschaftsblatt*, told the Gestapo that he believed “the Lord God created three sexes”, and the graphic artist Markus B., who was examined by Hirschfeld at the beginning of the century, explained to the *gendarmes* that it was “against his nature to have sex with a woman”.<sup>119</sup> The lack of such cultural references in the statements recorded in the Alsatian courts may be explained by omissions in the transcriptions, but there may also be a socio-cultural explanation. The fact that the Alsations had lived for the previous 20 years in a French context where there were no organised homosexual movements (Tamagne 2000) and their poor socio-economic condition may have limited their access to the homosexual literature of the day.

The annexation by Germany caused an upheaval in the lives of Alsatian homosexuals. The official press made a point of issuing warnings, and rumours of expulsion and detention in Schirmeck were rife. The Strasbourg *Landgericht* stated, for example, that defendant H. “must have been informed by the press and the homosexual circles he had long frequented of the strict view [of homosexuality] the German criminal justice system had always taken, and which was now also taken in Alsace”.<sup>120</sup>

The *Strassburger Neueste Nachrichten* reported on the conviction on 30 October 1941 of three residents of Strasbourg for an “unnatural sexual act”.<sup>121</sup> Some would go as far as to flee the annexed part of France to escape the repression, like Aimé Spitz in October 1940, who subsequently talked about the “the witch hunt for homosexuals” and the arrests and transfers to the camp in Schirmeck that he had “got wind of” (Spitz 1980: 5). He would eventually join the resistance and be deported to the Struthof concentration camp for political reasons. But most of them, worried and wary, simply adapted their behaviour to the new context, having more recourse to anonymous relations, for example, to avoid the risk of being reported. When questioned by the *Kriminalpolizei* in Strasbourg in 1942, Joseph R. explained that:

Until the war broke out in 1939 I had about four steady friends in all. ... Since we became German I have always continued to have ... homosexual relations with men. I knew it was illegal under German law, and that many men of similar disposition had been charged with the same offence. So I became more cautious and sought my partners mainly

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119. Paul H., born on 7 June 1898 in Hattingen and judged on 11 May 1938 by the *Landgericht* in Constance (StAF, D81/1-543); Markus B. born on 1 October 1901 in Weimar and judged on 8 April 1937 by the same court (StAF, D81/1-515).

120. Judgment No. 2KLs.25/42 dated 7 July 1942 (ADBR, 1243w246).

121. *Strassburger Neueste Nachrichten*, 5 November 1941.

in the public toilets at the theatre and in the Place Corbeau square. It would happen about once a week, particularly on Saturdays and Sundays. On these occasions I almost always found partners with whom I found satisfaction on the spot by masturbation.<sup>122</sup>

Others systematically destroyed their private correspondence or made prior arrangements with their partners as to how they would defend themselves if arrested. They did have some leeway, considering that the repression was not systematic. Certain homosexual meeting places, both public and private, continued to be very popular, like the public toilets in Place Corbeau in Strasbourg, in spite of sporadic arrests there.<sup>123</sup> The war years also afforded new opportunities for homosexual encounters, however, because more people were on the move, families were split up, and all-male organisations were brought into the annexed territory, such as the Hitler Youth (*Hitlerjugend*), the Air-Raid Protection Service (*Luftschutzdienst*), the National Labour Service (*Reichsarbeitsdienst*), the German army or the SS, into which the men of Alsace and Moselle were enrolled by force (Riedweg 2008). Homosexual relationships forged in these organisations, particularly those involving people in authority, whether over or under 21 years of age, were particularly harshly punished by the judges, who saw themselves as the protectors of these organisations and of young people in general. By way of an example, the Junker factories in Strasbourg, where adolescents from the Air-Raid Protection Service or working as apprentices were housed, were reputed throughout the war to have been a hotbed of homosexuality.<sup>124</sup> The *Landgericht* in Strasbourg actually considered that “living together” represented “a threat to young people” in this respect, although it appears not to have taken action against the youngsters who indulged in homosexual activities there.

So homosexuals, or at least men who indulged in homosexual practices, who lived in Alsace and Moselle during the war, were particularly punished because of their sexuality by the German authorities, often with the help of the local population and former French policemen and judicial officials who had joined the German state apparatus. The repression was there disproportionate to the repression in other parts of France.<sup>125</sup> There appears, however, to have been a difference in the degree of repression between Moselle and Alsace, which warrants further analysis. Be that as it may, the repression began even before the introduction in 1942 of paragraphs 175 and 175.a of the German Criminal Code, as the German authorities and police considered homosexuals in Alsace and Moselle to be members of the German race, and considered it their duty, as in Germany, to combat them. The special context of the annexed territories allowed the authorities to develop a broader range of responses

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122. Interrogation of Joseph R. by the *Kriminalpolizei* in Strasbourg on 3 April 1942 (ADBR, 1134W20).

123. Judgments No. 2KMs.13/42, dated 11 May 1942 (ADBR, 1243W245), No. 2KLS.18/42, dated 2 June 1942 (ADBR, 1243W245), No. 2KLS.46/42, dated 4 November 1942 (ADBR, 1243W242), No. SO.KLS.30/43, dated 16 March 1943 (ADBR, 1243W250) and No. 2KLS21/43, dated 16 June 1943 (ADBR, 1243W249).

124. Judgments No. 2KLS.4/42, dated 6 March 1942, No. 2KLS.16/42, dated 2 June 1942 (ADBR, 1243w244) and No. 2KLS.4/44, dated 28 February 1944 (ADBR, 1243W256).

125. According to a study by Boulligny (2000: 58), “it appears ... that no deportee arrested in occupied France ever wore the pink triangle”. If the situation of homosexuals living in the remainder of France not annexed by Germany changed it would be mainly because in 1942 the French state criminalised homosexual relations with a minor under 21 years of age. See Fillon and Boninchi (2001).

than inside the Reich, sometimes more radical, sometimes less brutal. But the repression of homosexuality in Alsace, although harsh, was neither a priority nor systematic, and certain homosexuals in Alsace and Moselle also had new opportunities to meet because of the war and the introduction of all-male organisations, and a certain area of freedom where they could continue to live their homosexuality, albeit in fear and provided that they adapted their behaviour.

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## Chapter 6

# Homosexuals and the labour service system in Horthy's Hungary

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*Judit Takács*<sup>126</sup>

**T**here is very limited information available on the lives of gay and lesbian people during and before the Second World War in Hungary, mainly because of a lack of sources and testimonies available in what is a largely new field of research. However, we can describe at least some aspects of the increasingly visible homosexual subculture in Budapest before the war.

It is important to underline that between 1878 and 1961 male homosexual behaviour was criminalised under the category of “unnatural fornication” in the Hungarian Criminal Code. The beginning of the 20th century found Hungary in the “age of dualism” after the Austro-Hungarian Compromise of 1867, characterised by complete independence regarding domestic policy but with surrendered state sovereignty in foreign and military policies (Fónagy 2005). This is the period when Károly Csemegi, Secretary of State of the Ministry of the Interior, created the Criminal Code of 1878, including paragraph 241 that rendered homosexuality – or literally “perversion against nature” (*természet elleni fajtalanság*, a largely unspecified term) – an illegal act punishable by up to one year’s imprisonment. The Criminal Code of 1878 remained for almost a century: through the First World War, at the end of which the Hapsburg emperor abdicated in 1918; the first Hungarian Republic, which was formed in the spring of 1919; the first “Communist experiment” in Hungary, a Soviet-type republic with proletarian dictatorship, which was followed by a counter-revolution and the Horthy regime. Csemegi’s code was still in place in March 1944 when the Germans occupied Hungary, in the years from 1945 to 1948 when “tentative democracy” turned into communist rule, and also during the 1950s. It was only in 1961 that the “unnatural fornication” clause changed and the general prosecution for homosexuality ceased (citing medical arguments that homosexuality was a biological phenomenon and therefore could not be handled legally as a crime). However, the maximum penalty for engaging in “unnatural fornication” with a partner under the age of 20 or causing a public scandal was still three years’ imprisonment.<sup>127</sup> As

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127. In 1961, different ages of consent were set for heterosexual and homosexual relationships, and this remained the case until 2002, when following the judgment of the Constitutional Court an equal age of consent (14) for all was introduced. While the age of consent for heterosexual relationships remained 14 in 1961, the age of consent for homosexual relationships was set at 20 in 1961 and at 18 between 1978 and 2002. See Takács (2007).



20th-century Hungarian legislation rendered homosexual activities illicit, it provided a sufficient basis for developing a state-run system of social control and surveillance of homosexuals or, more precisely, people who could be suspected of being homosexual or engaging in homosexual acts.<sup>128</sup>

## **Homosexuality in Hungary in the interwar period**

In 1926, one of the first books in Hungarian fully devoted to the “modern aspects of the homosexual problem” was published: here the author referred to homosexuality as a social problem, recurring suddenly after the First World War as a mass phenomenon, and as a “burning issue of the modern era” that could not be ignored (Pál 1926: 60). The rapid expansion of homosexual life, the “great homosexual tide flooding Budapest” (ibid.), was presented as an inherent feature of world-scale urbanisation and the development of Budapest into a world-class metropolis. By the author’s estimate, by the 1920s the number of *urnings*<sup>129</sup> was over 10 000 in Budapest. They had several venues to meet and interact, including bath houses and vapour baths, and inner-city locations, most of which would remain popular cruising areas for several decades.

In 1929, a group of journalists and police officers published a two-volume work, *Modern criminality* (Turcsányi 1929), where the authors, following Krafft-Ebing’s aetiology, distinguished between acquired and inborn forms of homosexuality and pointed out that when beginning homosexual activity people with acquired homosexuality did not yet have that “unbelievable and unexplainable skill with which they are able to recognise each other”. Thus sometimes they wrongly pursued “normal men”, who would “naturally be repulsed” or even report them to the police, and “[t]hese unsuccessful attempts bring them to those well-known places, where the pathologically inclined homosexuals” gather: public toilets, parks and public bath houses – where they could find suitable partners; however, they could also fall into the hands of extortionists and male prostitutes (ibid.: 121).

In 1933 a practising doctor of the Royal Hungarian Public Health Institute published a study fully devoted to the issue of homosexual male prostitution: his Hungarian data source was a secret police file from 1932, containing a list of 1 695 male homosexual prostitutes. Here prostitution was defined in the context of a person making their body available for the lust of others in order to gain financial profit or social advantage or both; however, the author also pointed out that in a social environment where homosexual activities “clash with the dominant moral views, being despised and detested by heterosexuals, persecuted by the state, proscribed by religious rules and punishable by the law” (Szántó 1933: 3), the luxury of having a same-sex sexual partner was reserved for those with greater social advantages.

In 1934, Zoltán Nemes-Nagy, a Hungarian psychiatrist and neurologist, devoted a whole chapter of his study of sexual pathology to “Homosexuals in Budapest”, where

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128. This state-run system of social control remained in operation during state socialism, too. See Takács (2015).

129. *Urnings* are men, belonging to a transitional third gender, who love other men. The term, inspired by Plato’s *Symposium*, was coined by the German jurist Karl Heinrich Ulrichs (1825-95)..

he highlighted the fact that the Hungarian capital was “the first metropolitan city in the whole world where semi-official records [had been] compiled on homosexuals” for about 15 years. Budapest police had data on about 5 000 men, including “mainly passive homosexuals and those, who commit unnatural fornication for material interest” (Nemes-Nagy 1934: 73). The collected data included the following elements: name, place and date of birth, religious affiliation, marital status, occupation, address, place apprehended, nationality, knowledge of languages, female name, inclination, company, height, way of speaking, details on appearance (eyes, mouth, nose, ears, face, hands, hair, moustache, beard, special distinguishing marks), details of any previous criminal record, and three photographs (ibid.: 73-4). The author estimated “the real number” of homosexual men in Budapest was about 15 000, most of whom would never be detected as they moved in “up-scale circles, carefully trying to avoid publicity and any kind of scandal leading to the police” (ibid.: 73).

In the 1930s Budapest was a spatially ordered, modern city, characterised by designated public spaces mainly serving the interests of the higher middle classes. While for most urbanites meeting – cultural and biographical – strangers, coming from previously separate real and symbolic worlds, is merely an unavoidable concomitant of living in a modern city, for homosexual life the emergence of the unique social psychological space of the public realm provides a previously unknown dynamic (Lofland 1973). In larger cities like Budapest, with established meeting places and patterns of decodable behaviour, people attracted to others of the same sex, being potentially liberated from much tighter forms of social control characterising smaller settlements, could submerge themselves in a world of strangers and try to act as a homosexual, not just be one. With official or semi-official lists of homosexuals having been compiled in Budapest since at least the early 1920s, it suggests that same-sex desires were socially recognised and, at the same time, unrecognised during the early decades of the 20th century, and these processes continued for the rest of the century.

### **Horthy’s labour service system**

Recently, a document from 1942 was uncovered in the Hungarian War Archive (*Hadtörténelmi Levéltár*),<sup>130</sup> which has added to the still very scarce historical evidence showing that during the Second World War homosexuals were also targets of life-threatening state control in Hungary. A list of 993 alleged homosexuals was part of the correspondence between the State Security Centre and the Minister of Defence, contemplating whether or not to use them as forced labourers within the wartime labour service system.

The wartime labour service system was a special phenomenon of the Horthy regime, a period of Hungarian history named after Miklós Horthy, regent of the Hungarian Kingdom between 1920 and 1944 (this period of Hungarian history is often described as a kingdom without a king, ruled by an admiral without a fleet, in a country without a coastline). The obligation of home defence-related labour service (*honvédelmi*

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130. Original archive document of the Hungarian War Archive (*Hadtörténelmi Levéltár*): No. HM 68763/Eln.1b. – 1942.

*munkakötelezettség*) was originally introduced by Act No. II of 1939 on Home Defence. According to Randolph Braham, who has done extensive research on this topic:

the Hungarian labor service system was conceived as part of the anti-Semitic policies pursued by Hungarian governments in tandem with the Third Reich. The system was established in 1939 when Hungary's political, diplomatic, and economic relations with Germany bore the first fruits of its revisionist ambitions. By that time the Jews of Hungary were defined along racial lines and deprived of many of their basic civil, economic, and human rights. Even during the first phase of its operation (July 1939-April 1941), the labor service system was discriminatory. Although labor servicemen were allowed to wear army uniforms at work, they were identified as unreliable and forbidden to bear arms (2004: 59).<sup>131</sup>

The 69059/1942 Decree of the Minister of Defence extended the scope of the law to all Jewish men aged 18 to 48:

[By] early 1942 Jewish officers were deprived of their rank and labor servicemen were not only compelled to wear their own clothes and footwear, but also a yellow or white armband that identified them as easy targets for abuse. The treatment of labor servicemen varied from company to company depending on the attitude of the commanding officers. In general, however, Jewish labor servicemen were treated as pariahs and abused by the Christian officers and guards ... Their daily life was not fundamentally different from that of the Jews who lingered in German concentration camps. Like the victims in those camps, labor servicemen were often subjected to punitive treatment by officers and guards, deprived of their possessions and basic needs (including adequate shelter, nutrition, and sanitary care), and subjected to unimaginable tortures. Countless thousands were executed on order or on the whim of sadistic German and Hungarian soldiers. Moreover, many labor servicemen ended up in German concentration camps after being discharged from the service or as a consequence of their withdrawal from the frontlines (ibid.: 59-60).

The aim of the wartime labour service system was to keep the politically unreliable elements of society – primarily Jews, but also communists and members of non-Hungarian ethnic groups – away from armed military service and at the same time force them to take part in the war effort. This is how the unarmed home defence labour service came into being, leading to the death of thousands of forced labourers who were sent to the front lines without sufficient equipment and supplies.

The correspondence between the State Security Centre and the Minister of Defence, consisting of four letters and two attached lists, began on 7 November 1942 with a proposal on behalf of the former (within the Ministry of Home Affairs)<sup>132</sup> addressing the latter as follows:

Please, call up into the home defence labour service the homosexual individuals, being unreliable regarding public morality, located within the territory of the capital, Budapest, listed in the attached register. Please, inform us about your Honour's decision.<sup>133</sup>

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131. For more details on the Hungarian forced labour service see Braham (1977). For a detailed discussion of the anti-Semitic policies pursued by Hungarian governments in the first half of the 20th century see Karsai (2005).

132. The State Security Centre was established within the Ministry of Home Affairs in 1942.

133. HM 68763/Eln.1b. – 1942.

On the same day the request of the State Security Centre was sent out for internal discussion on behalf of the Minister of Defence “pro domo” within the Ministry of Defence. This letter stated that the “Ministry of Home Affairs, (more precisely: the State Security Centre) requests that officially registered homosexuals, being residents of Budapest, should be called up into the home defence labour service”.

Regarding this request the Department of Military Organisation and Mobilisation submitted the following arguments:

According to Act No. II of 1939 suitable individuals on the basis of their occupation or education can be employed for home defence labour. Everyone should be employed in the best possible way to serve the interest of home defence. [Thus]...there is no legal possibility to mobilize these [homosexual] people for home defence labour service. The department also considered the possibility of mobilizing them for military service ... [by taking into consideration that] previously socially harmful individuals (prisoners, internees) were divided into two groups: those who are reliable and those who are unreliable regarding (their) national loyalties. Those in the first group were assigned to active service, while the others were used in special labour companies... [however] in the view of the department these people cannot be categorized as unreliable regarding their national loyalties, therefore they should be assigned to active military service, which is by no means a desirable solution. Regardless, those listed in the (attached) register should be divided into the following groups:

- a) Jews;
- b) non-Jews;
- c) those who completed military service;
- d) those who have been enlisted;
- e) those who have not completed military service;
- f) those exempted from conscription because of their age;

and we should follow a different procedure in each case – but the attached register does not include the necessary data [on the basis of which these category memberships could be established]... [In summary, on the basis of the above] it would not be desirable to look for solutions in the military line: this issue requires an explicit policing (administrative) solution as there is no hope of changing the character of these degenerated neurotic individuals.<sup>134</sup>

It was also added that there was “an increasing tendency to offer the scum of the population for military use, while these procedures would hurt the feelings of those other impeccable individuals who participate in the war, when they see that the [military] service gains a primarily punitive character”.

Additionally, one officer made the following note in handwriting: “It is undoubtedly useful, if mainly the nationally useless elements decay...”. Another lieutenant referred in a handwritten comment to the possibility of collecting homosexuals into special labour force companies and employing them outside the country’s borders; however, “in this case they would get into the same category with those being unreliable regarding (their) national loyalties”, thus the question emerges: “would it be useful to make all these men meet and get to know each other more closely? I certainly wouldn’t advise that.”<sup>135</sup>

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134. HM 68763/Eln.1b. – 1942.

135. HM 68763/Eln.1b. – 1942.

Nevertheless, on 11 November 1942, another short letter arrived from the State Security Centre, addressed again to the Minister of Defence, requesting similar treatment for an additional 184 men to those 810 alleged homosexuals whose data had already been sent on 7 November. The two lists consisted of data on 993 men, including their name, place and date of birth, religious denomination, family status, occupation, first name of father (or an indication of being an illegitimate child), their mother's name and (possibly the last-known) address. Data on two further individuals are missing because the paper part of their records was cut out with scissors "on the basis of a conversation with the Chief Commissioner", as handwritten margin notes testify.

## **Alleged homosexuals**

Most of these "listed" allegedly homosexual men were in their late 20s (with an average age of 29, in an age range of between 16 and 48), and worked as manual labourers (about 160 of them as farmhands and about 80 in commerce): there were only a few intellectuals and artists among them (for example, 3 actors, 8 musicians and only 1 journalist). Some 29 of the 993 men were married, 46 had been illegitimate children and 37 had their address given as "prison". Regarding religious affiliation, there were 629 Roman Catholics, 167 Jews, 127 Calvinists, 24 Evangelicals and 19 Greek Catholics – these numbers are in line with the division of denominations in the population of Budapest in the early 1940s.<sup>136</sup>

It is a matter of concern that the origin of these lists cannot be established, but it can be supposed that they came from police files. The phrase "officially registered homosexuals" used in the correspondence can support this supposition.

The final item of the correspondence that has come to light is a (possibly draft) reply of 3 December 1942 from the Minister of Defence addressed to the Minister of Home Affairs, stating that: "I have no means to follow your Honour's recommendation to take these homosexual individuals into military service".

So far these are the only known documents that can provide a link between the history of homosexuality in Hungary and the Holocaust, and this link is not a very strong one, as at present, besides archive documents on criminal court cases, there are no historical data available to explain what happened in Hungary during the 1940s to alleged homosexuals in general, and to these 993 listed men from Budapest in particular. Unfortunately, the content of most of the wartime court cases cannot be accessed any longer; for example, for the period between 1938 and 1951 only five "unnatural fornication" court case files remained accessible in the Budapest City Archives, while according to the archive's index books there used to be many more case files from the late 1930s and the 1940s, most of which must have been destroyed after the war. Additionally, at the National Archives of Hungary, there are also a few criminal case reports, where the race defilement law (Act XV of 1941) that enforced racial segregation at the level of intimate relationships, including sexual acts between Jews and non-Jews, was applied to "unnatural fornication" cases. From one of these reports we can learn about a case from 1943 when a 39-year-old Jewish man who

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136. I would like to thank Péter Tibor Nagy for sharing this data with me on the basis of a contemporary yearbook of statistics (*Budapest székesfőváros statisztikai évkönyve 1944-1946*).

paid a 17-year-old boy to conduct oral sex with him was charged with “unnatural fornication” and sentenced to internment.<sup>137</sup>

Compiling “homosexual inventories”, which listed potential blackmail victims who could be convinced or coerced into becoming police informers, was part of regular police work in urban areas and especially in Budapest from at least the 1920s onwards (Takács 2014). These practices are also reflected in archive documents of the Historical Archives of the Hungarian State Security (Állambiztonsági Szolgálatok Történeti Levéltára – ÁBTTL), where one of the alleged homosexuals from the 1942 “homosexual lists” was also traced.

Perhaps surprisingly this man, a journalist – actually the only journalist on the 1942 list – appears in the socialist state’s secret police files under the code name “Urbán” as a source who was recruited to become a police informer on the basis of “patriotic conviction” in 1959. However, the secret police files of the “Urbán dossiers” do not contain any information that could shed light on how he became registered on the homosexual list compiled by the Ministry of Home Affairs in 1942. In fact, it seemed that the socialist state’s secret police did not know anything about this – homosexual list-related – detail of his life. Another secret police report from 1959 indicates that in 1940 he was displaced as a journalist because he was Jewish, and was sent on home defence-related labour service duty as a Jew in 1942. According to the secret police documents of the ÁBTTL, “Urbán’s” main job as a police informer was to report on his journalist colleagues and Western contacts from Vienna, a job he fulfilled with varying degrees of success until he defected in 1973 and settled in Australia. However, this is – at least in part – a different story, relevant to a discussion of how people could be forced and/or convinced to become police informers during the era of state socialism.

Even though there is only limited information available on the “homosexual way of existence” (Bech 1997) in Hungary in the first half of the 20th century, on the basis of historical evidence on elements of homosexual life before the Second World War, Budapest can be seen as a spatially ordered modern city, characterised by specialised public-space use (Lofland 1973). Pre-Second World War Budapest, with its established meeting places and patterns of decodable behaviour, seemed to be able to provide a new dynamic for homosexual life; as can be seen, it is not too difficult to find empirical evidence for the existence of a semi-secretive homosexual subcultural infrastructure, for example, in the form of the surveillance system that was introduced to control it. Twentieth-century Hungarian legislation rendered homosexual activities illicit (especially before 1961, when the general prosecution of “unnatural fornication” ceased to exist) and provided a sufficient basis for developing a state-run system of social control and surveillance of people engaging in homosexual acts.

This chapter has presented historical evidence about the existence of two special Hungarian lists of 993 alleged homosexuals from 1942, compiled for official state use in the context of the wartime labour service system, a special characteristic of

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137. I would like to thank Gábor Szegedi for directing my attention to these cases and to the United States Holocaust Memorial Museum Archive, where an index of the Personal Records of the Hungarian Ministry of Internal Affairs (1939-1944) can be found at [http://collections.ushmm.org/findingaids/RG-39.008M\\_01\\_fnd\\_hu.pdf](http://collections.ushmm.org/findingaids/RG-39.008M_01_fnd_hu.pdf), accessed 28 June 2017.

the Horthy regime. Besides archive documents on criminal court cases, these documents can provide the only currently known link between the history of homosexuality in Hungary and the Holocaust. Unfortunately, there is no historical data available to find out exactly what happened in Hungary during the 1940s to alleged homosexuals. It is clear that at the end of 1942 the Ministry of Defence denied the request of the State Security Centre (within the Ministry of Home Affairs) to conscript a list of registered homosexuals from Budapest into forced labour service, but the actual fate of most of the 993 men whose names were on the homosexual lists is uncertain. Further research would be needed to find out more about the treatment of Hungarian homosexuals not only during but also before and after the war. Additionally, it should also be pointed out that the extent and durability of Hungarian surveillance of homosexual men would make it worthwhile investigating this topic in a wider central and eastern European context as well.

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## Chapter 7

# Fascism, war and male homosexuality

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*Lorenzo Benadusi*

**A** study of homosexuality in Italy against the backdrop of the Second World War must analyse the relationship between fascism and masculinity, while also calling into question the repressive thesis that is often applied to questions of sex and gender under the regime. As Dagmar Herzog has demonstrated, the place of sexuality and homosexuality in war can only be understood by considering the juxtaposition of brutality and desire, violence and pleasure, and repression and liberation. She writes:

It is indisputably challenging, even emotionally and intellectually disorienting, to think carefully about the two profoundly different ways that war and sexuality have intersected in the twentieth century – on the one hand, the topsy-turvy border-crossing sex made possible by the increased mobility, anonymity, and intensification of daily life brought by wars and, on the other hand, the recurrent reality of grotesque sexual violence – considering the two dynamics side by side is absolutely essential if we are to make sense both of the experiences of wars and of their aftermaths (2008: 11).

Such an approach has also demonstrated how an overly rigid vision of masculinity in scholarship has led to a division of types and counter-types, of hegemonic and subaltern models, while in reality the practices and definitions tied to masculinity during the period were more nuanced. It is precisely the accentuation of the hyper-virile characteristics of males that made gender identity even more labile, since the sheer existence of rules presupposes the possibility of breaking them, often leading to the coexistence of normative and transgressive behaviour.

The subjectivities that come to the fore, even in dictatorial regimes, are therefore those negotiated through unstable forms of compromise. In such a context, fragility becomes one of the distinctive traits of masculinity. The necessity of demonstrating one's virility is so great as to create anxiety about the capacity to adjust and conform to gender expectations (Halberstam 1998; Buchbinder 1998).<sup>138</sup> Indeed, the relationship between norm and transgression becomes more complicated, especially within the context of war, which offers new opportunities for the reconfiguration of gender-role assumptions.

As part of a general investigation of the relationship between homosexuality, fascism and the war, in this chapter I shall address the following arguments more specifically:

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138. For a historical reconstruction of male anxieties see Hall (1991). On the crisis of masculinity see Mort (1994).

the techniques of repression used by the regime with regard to homosexuality; the ways in which the war changed the nature of relationships between men; and the ways in which homosexuals adapted to the hyper-masculine, heteronormative world of the armed forces.

The Italian situation presents some particularities that must be taken into consideration: most importantly, Italy went to war early, with the invasion of Ethiopia (1935), the intervention in the Spanish Civil War (1936), and the alliance with Nazi Germany (1936), and then with its entrance in the Second World War (1940). At the same time, the war ended earlier in Italy, in 1943, with the Anglo-American occupation of the south, the Nazi-fascist occupation of the north and the outbreak of a bloody civil war.

Consequently, Italian society under fascism underwent an accelerated process of militarisation that tended to erase the differences between public and private, and civil and military life. The military sphere coincided with the civil, men were envisioned as warriors and the body of the Duce was held up as a model for gender identity and as the exemplar of man and soldier.

Mussolini became the incarnation of all Italian males: the father of all Italian children, husband and lover of all Italian women, and commander of all Italian soldiers (Gori 2000). Identification with the Duce was facilitated by the plurality of images Mussolini assumed, allowing for different and contrasting readings: Mussolini-skier, Mussolini-aviator, Mussolini-shirtless cutting grain, and Mussolini on horseback: there is almost no end to these masquerades.

During the second half of the 1930s, when fascism had embarked on a series of foreign military endeavours, the role of the new wartime morality was to forge the “new Italian”, the “fascist Italian”, from the generation that had fought the war, and above all from the new legions in training in the party’s youth organisations. Mussolini believed war, empire and racism would mobilise and transform the Italian nation, making it truly fascist within his lifetime (Knox 1984, 2000).

With the formation of the empire and the implementation of the fascist racial policy, it became even more urgent to restore in “all Italians that virile, martial, energetic and productive manner that had been typical of the Italian race throughout time” (PNF 1940: 49). Only an imperialistic war could help break the old society’s resistance to the new militarism, and make Italy the warrior nation that Mussolini desired. Immediately after proclaiming Italy an “empire”, he announced:

We made the Empire, we must make the imperialists. With the creation of the Empire, Fascism has to strengthen the renewal of the Italian way of life. ... In all sectors of public and private life we must instil a new style, a new pride, a new discipline, a new Fascist sense of virility that is bold, martial and sporting (Mussolini 1938).

All of the various initiatives of fascism would be characterised as “battles”: the demographic battle, the battle of the lira and the battle for grain. The military metaphor was much more than simple rhetoric: it was an effort to recreate the psychological tensions of war during peacetime.

Dress, youth and sport were militarised and collective celebrations became mass military-style exhibitions. To put it succinctly, the aesthetics of politics became the aesthetics of war. There were problems implementing these policies in conformity with the Catholic tradition of the country. However, as some recent studies have demonstrated, a pedagogical model of a virile, heroic Christianity was offered through the myth of the *militia Christi*, allowing young Catholics to present themselves in the guise of warriors (Piva 2015; De Giorgi 2002; Ponzio 2005). Fascism so widely diffused its vision of the masculine model that it became nearly impossible not to be conditioned by its influence. Whoever strayed from the ideal of the citizen-soldier by portraying a negative counterpart was to be isolated and corrected.

Within the totalitarian framework of the “party-church” and the “party-militia”, commandments, catechisms, the 10 Commandments, rules and behavioural guidelines served to define the duties of fascists and distinguish them as true believers in the fascist ideology (Quaresima 1940).<sup>139</sup> Military lifestyle stood in opposition to that of the bourgeoisie, which was seen as an obstacle to the transformation of the state into a barracks. Fascism’s attack on notions of peace and quiet, on inactivity and lack of strength, and its opposing exaltation of virility and militarism, led it to reject the bourgeois mentality. Since the “new man” had to be warrior-like, energetic and courageous, with a strongly competitive spirit and endless vitality, it was inevitable that the passivity and lack of heroism ascribed to the bourgeoisie would come under attack. This struggle between bourgeois respectability and totalitarian aspirations to achieve a real anthropological revolution was present for the entire fascist period and especially during the Second World War. Emilio Gentile correctly observed that fascism sought to replace “middle-class respectability” with a form of “respectability in uniform” based on courage, militarism and virility (Gentile 2002; Benadusi 2012a).

Fascism deemed homosexuals incompatible with its virile warrior spirit, ill-prepared for the battlefield and, as such, lesser men. Whoever did not comply with fascism’s ideal of the citizen-soldier came to represent its negative counterpart and needed to be corrected and isolated. Indeed, fascism’s repression of homosexuality was part of its overall project of transforming the consciences of Italians: an “anthropological revolution” meant to regenerate the nation and create a “new man”.

For fascism to be a virile regime and the Italians to become truly strong, homosexuality could not exist, so the strategy adopted by the regime was to cover up the issue as much as possible. To use one of Marcuse’s categories, that which was defined as Italian fascism’s “repressive tolerance” towards homosexuals, was, in fact, an effort aimed at eliminating sexual “anomalies” without publicising the operations that were carried out to do so. To this end, the most appropriate method for not attracting too much attention to repressive activities was police confinement. It was effective in covering the legal gap created by the exclusion of homosexual relationships from the crimes of the penal code (Benadusi 2012b).

The masculine model that focused on virility and portrayed men in military and aggressive attitudes, prompted repressive actions towards passive, or “female”, pederasts who had feminine manners and played the role of the woman (during

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139. Regarding Fascist decalogues and catechisms see Galeotti 2000.

the fascist period, “pederasta” was the term most commonly used to indicate a homosexual).<sup>140</sup> And it did not sanction active pederasts whose behaviour was considered normal and in line with the cliché of the dominant man who conquers and possesses. In short, police forces identified pederasts as those men who assumed the passive role in the relationship. In fact, to prove that the accused were homosexual some police commissioners made use of a rectal examination to provide “objective” proof of anal penetration.<sup>141</sup> Sexuality had to conform to the established roles: the dominant active role of the male, and the subordinate passive role of the female. More than homosexuality, what disturbed authorities was the lack of virility, and the passivity and effeminacy exhibited by individuals (Ebner 2004).

Those homosexuals who strayed from the effeminate cliché created confusion, especially when they were combative and virile fascists, as in the case of the young killer and Italian Socialist Republic (RSI) militant who Benito Bollati met one day in the San Vittore prison. Bollati (Bollati 1998: 183) was shocked when this “abnormally muscular” Sicilian man openly confessed to having had a tragic relationship with a beautiful, curly-headed, dark-eyed, pretty-faced boy.

More than homosexuals, fascism punished those who, regardless of their sexual identity, spread a negative image through their feminine behaviour, thereby jeopardising the model of respectability and manhood that fascism projected. Thus, most of the homosexuals captured by the police were those whose sexual inclinations were evident, either because they were prostitutes or because “having been infected with the passive pederast illness, they had lost all sense of decency” and tended to “make their deprecation known publicly”.

These men were often from the poorer classes and had a history of hardship and difficulty; they were often illiterate, and employed part-time in menial positions. The fact that they were the only ones to be punished shows that the distinction between homosexuality and heterosexuality was made on the basis of gender roles rather than sexual behaviour.

With the onset of the Second World War, the atmosphere grew even more severe and rigid. Exhibitions of amusement, luxury and lust were inadmissible in the face of the poverty and hardship affecting the general public.

The frivolous and dissolute lifestyle of the *gerarchi* (members of the National Fascist Party, the PNF) needed to be toned down to show solidarity with the civilian population, who were suffering financial difficulties, and with the soldiers, who had committed themselves to fighting the war. The type of polemics that arose between draft-dodgers and the army during the First World War had to be avoided at all cost. The regime’s greatest concern was caused by the profligate “moral pederasty” of those who continued to spend heedlessly in order to satisfy their desires but remained untouchable because of their social or political standing. The moral atmosphere had

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140. Indeed, looking back on the 1930s, Carlo Coccioli writes: “it’s very possible that the first denomination I ever hear in reference to my state was pederasta” (1995: 194).

141. This information regarding homosexuals sent to confinement is drawn from the documentation conserved in the Central State Archives and analysed by Benadusi (2012b).

to be intensified, as PNF secretary Carlo Scorza tried to reiterate in his campaign against the feminisation of men:

Fascism must intervene with iron and fire, without exceptions. Therefore, it is absolutely necessary for all of the men – those who are really men – of the fascist race to dedicate themselves to straightening the spine of the feeble-bodied and all of the descendants of Signor Brunetto Latini. We must reach the point at which bachelors and deserters of the marriage bed must live in shame and hide their condition: like impotent men do, treating it as a real physical defect (Scorza 1943: 29).

In a rigorous effort to stop the spread of this dissoluteness, greater control had to be exercised over conduct in the private spaces of society. The police were concerned that homosexuals could “take advantage of the state of war” to vent their “sexual perversion”, but at the same time, the needs of the war made the repression of homosexuals less urgent.

For example, the story of the Catanian homosexuals confined in San Domino (Tremiti) ended on 28 May 1940, when, by proposal of the police chief and with the Duce’s approval, it was decided to free the 56 “pederasts” on the island and change their remaining sentence to a two-year cautionary period (Goretti and Giartosio 2006). The decision of the fascist authorities was not driven by indulgent pity but by problems of overcrowding: when France was defeated it was decided to send individuals more dangerous than the homosexuals to San Domino, namely, the anti-fascist Italians who had fought in Spain on the side of the republican army, and had been interned in French concentration camps at the end of the Spanish Civil War.

Moreover, in July 1942, it was decided to evacuate the two islands of Ustica and Favignana (which were too close to Allied troops) as it was expected that the punishment of *confino* would be reduced to a warning for those who had already served two thirds of their sentence. Consequently, the police department prepared a list of all the “pederasts” in the two colonies, indicating the 196 who were to be released.

The army adopted a similar attitude against homosexuals, but it also represented a series of possible interpretations of masculinity – from the figure of the combatant, to that of the administrator or employee who worked at the rear. One of these was that of the virile homosexual: the rough, military man who, with the exception of his homosexuality, was no different from his companions.<sup>142</sup> Indeed, it is clear that there was a serious reluctance on the part of authorities to discharge homosexuals from military service. The *de facto* military policy was to ignore or deny homosexual behaviour: Italy had the same policy long before the days of “Don’t ask, don’t tell” (Jackson 2010).

Also, the high demand for soldiers during wartime led to a greater level of tolerance with regard to gay combatants. This change in policy is demonstrated by the fact that homosexuality was no longer listed as a crime in the military penal codes as of 1941. Nevertheless, we should note that a rectal examination used by the authorities to identify homosexuals was part of the standard medical enlistment evaluation. All

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142. On this idea that there exists not just one uniform model of masculinity in the armed forces see Higate (2003) and Morgan (1994).

individuals recognised as being afflicted with sexual mental disorders were considered unfit for military service.<sup>143</sup> In addition, it was understood that some of the homosexual activity that occurred during the war might not have been indicative of one's overall sexual orientation, but rather tied to motivations of sexual relief or by the desire to avoid venereal disease and pregnancy (Vickers 2008: 126).

Consequently, John Costello (1985: 173) says that the military experience of gays and lesbians in the Second World War "chipped away some of the old taboos. ... servicemen living in close proximity to one another were made aware that men who chose a sexual relationship with other men were not suffering a deadly disease, nor were they cowards or effeminate".

For Allan Bérubé (1990: 6) "the massive mobilisation for the war gave the opportunity or forced many homosexuals to come out, to make friends with other gay people, and to begin to name and talk about who they were". During the war it was possible to express behaviours that were condemned as deviant and reprehensible earlier. In addition, homosexuals found a much longed for opportunity to integrate themselves and to demonstrate their capability and worth. The ability to prove one's strength in combat, one's courage, sense of duty and loyalty were considered more important than one's sexual orientation. As Vickers discovered in her work on homosexual British soldiers in the Second World War, gay men found they had the opportunity to be considered "good fellows" if they adhered to a soldierly image in which they did a good job and did not display their homosexuality, or at least did not appear effeminate in a way that threatened their comrades: "In this sense gays and lesbians were not the victims of a tyrannical military regime. On the contrary, they were able to navigate around military law" (2008: 129).<sup>144</sup> Therefore, exhibiting a warrior-like and virile masculinity served to hide one's homosexuality, making it one component of a more general camaraderie characterised by its strong homoerotic undertones. Homoeroticism was considered an inevitable element, essential and not accidental, of an exasperated community of men so closely united on the inside as to become impenetrable to the outside, and especially to the feminine world. Moreover, though the ties between soldiers rarely had sexual implications, they did often develop into intense emotional bonds of intimacy.<sup>145</sup>

In Italy, the Second World War represented a turning point in the lives of homosexuals. The war allowed an opportunity for many men to discover their sexual identity for the first time or to find others like themselves, to put an end to their isolation and to form new relationships. However, these elements of the war either remained an unspoken subtext or were not expressed at all.

Interestingly, as Paul Fussell (1989: 109) writes, "one curious thing is that, compared with passionate writing in the Great War, the convention in the Second was that love was strenuously heteroerotic. ... References to homosexuality were so rare to

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143. The offense of homosexuality was foreseen in military criminal codes. Both the Army (Article 273 Army Code) and the military navy (Article 297 of the Marine Code) provided for harsh punishments for acts of libido against nature. But in the new 1941 military penal codes the provision was not maintained. See Messina (1953).

144. For the same analysis on the Australian army see Wotherspoon (1995).

145. On homoerotic photographs of American soldiers during the Second World War, see Hanson (2014).

engender special notice and comment". Indeed, during the Second World War – which overturned the male paradigm of war, delegitimising the act itself – the male component of trench warfare was strongly diminished, the male homoerotic tone was no longer evident, and the single-sex community was now in constant contact with women and civilians. The very nature of the war altered its gender connotation: the involvement of civilians, and for the first time such a large number of women, made the Second World War, quintessentially, a feminine war (della Loggia 1991) and led to the dissolution of the nexus war/masculinity with the birth of the "post-heroic society" (Sheehan 2008).

The occupation of southern Italy from July 1943 to 1945 created conditions that fostered relationships between United States soldiers and young Italians who were willing to prostitute themselves for a little money, some food or some cigarettes. The relationship with a soldier, especially if foreign, was not very difficult because it was inevitably short and fleeting. John Horne Burns, in his novel *The gallery* (1947), describes the chaotic and *sui generis* "Momma's bar" where "people express a desire disapproved of by society. But in relation to the world of 1944, this is just a bunch of gay people letting down their back hair" (Burns 2004: 150). Almost as risky was the book's brazen reminder to readers that during the war, soldiers and Italian civilians commingled sexually, sometimes with tremendous emotional intensity and at other times with cold indifference.

With Italy's defeat in the war impending, poverty, misery and squalor seem to have fomented female, but also male, prostitution more than ever. For example, Curzio Malaparte's novel *The skin* (1949), describes the general climate of "corruption" in liberated Naples and, despite its exaggeratedly grotesque tones, it represents an open denunciation of the effects of such a political, economic and social disparity between the liberators and the liberated. In this context all human relations take on a mercenary character, especially sexual relations.

At the first news of liberation there was in fact a migration of "languid hosts of the homosexuals" to Naples, not only from Italy but also from all over Europe coming "to meet the armies of liberation" (Malaparte 1949: 57). Naples became a great *bordello* (Le Gac 2015),<sup>146</sup> and as Malaparte describes it:

the capital of European homosexuality, the most important world-centre of the forbidden vice, the great Sodom to which all the inverts of the world were flocking – from Paris, London, New York, Cairo, Rio de Janeiro, Venice and Rome. ... Misery is the reason of male prostitution and sexual truism, men have sex with American soldiers because they have won the war, and they are rich and powerful (1949: 87).

So, "when the Allies have liberated all Europe, do you know what they'll find? A horde of disappointed, corrupt, desperate young men, who will play at being pederasts as if they would play tennis", and as such, "contact which until then had remained discreet, between the high nobility of inverts and the proletariat homosexuals was suddenly and improperly on display" and "the social promiscuity of the vice, which

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146. See Brown (2004): Paul W. Brown was an American soldier stationed in Italy during the Second World War who described Naples as "the world's bordello. On some similar aspects of the relationship between American and French liberators. See also Roberts (2014).



usually prefers to hide itself” spread openly, breaking the boundaries of class, age and lifestyle (2015: 62). The novel ends with the description of the eruption of Vesuvius – which had really erupted in April 1944 – providing Malaparte with another of his extended metaphors for the calamities of the American occupation.

Although Malaparte’s literary representation may have overly accentuated these elements of moral decay, other first-hand accounts prove how uncomplicated these homosexual encounters were, in particular for the young men who were too young to go to war. For example, Gian Piero Bona, of an industrial family from Turin, tells us how it was common for him to invite American soldiers he met in the street home with him in order to make love:

In 1945 Turin was full of Americans, they had set up camp along the banks of the Po ... There were two brothers from Texas, Bill and Paul, who had one blue and one black eye. I lost my head for them! I invited them to my house and the thing was accepted since they were the liberators. I screwed both of them. We went out on a boat on the Po and had sex together. We had no qualms about it (Pini 2011: 168).

In addition, there had already been a steady flow of homosexual tourists during the fascist years, who, as in the *Belle époque*, went to Italy in search of pleasure and freedom. This naturally seems a paradox under the dictatorship. However, places like Capri, but also Taormina, had become internationally recognised as meccas for homosexuals and free love, places where the rules of respectability and decency were absolutely special and where rigid fascist conformism could not take root. In the words of Captain Joe to Monna in Burns’s story, what is needed is “a compromise between being what we are and not hurting others” (Burns 2004: 152). Seeking voluntary “exile” in Italy to avoid trial and probable condemnation was a typical custom of English homosexuals, a custom that was to continue during the period before and after the Second World War. Below, Joe Ackerley explains the reasons why he himself sojourned abroad:

Of course my obsession with sex was already taking me to foreign countries, France, Italy, Denmark, where there were more civilized laws and where I did not run the risk of being arrested and ending up in jail because of the colour of my hair. Abroad there were fewer reasons for tension; but at the same time – belated conclusion – what was the sense of having friends in the other countries? (2000: 126)<sup>147</sup>

Once the war was over, and for many years afterwards, the idea of fascism as an emblem of negative values and the manifestation of a form of degeneration – of both power and politics – fostered a connection with homosexuality, which was employed as a metaphor for the cruelty, perversion and the corruptness of dictatorships. In the field of literature and cinema, the fascists and Nazis were presented as grotesque executioners, addicted to all kinds of vices and depravity. Ruthless homosexuals appear as torturers in Roberto Rossellini’s *Rome: open city* (1945), Luchino Visconti’s *The damned* (1969), Liliana Cavani’s *The night porter* (1974), Pier Paolo Pasolini’s *Salò, or the 120 days of Sodom* (1975) and Bernardo Bertolucci’s *Novecento*

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147. On the numerous English personalities who came to Italy for short visits or on a permanent basis because of their homosexuality see Hyde (1970); Aldrich (1993); Benadusi (2006).

(1976), just to mention a few of the best-known works. Homosexuality was used to express the negativity of fascism.

Oddly enough, these works, which portray the persecutors with the imagined qualities of the victims, adopt the same negative stereotype of homosexuality spread by the fascists. Such a depiction risks obscuring or erasing the reality of the persecution suffered by homosexuals at the hands of a ferocious regime.

After the fall of fascism, its legacy nevertheless remained strong. Homosexuals themselves had been forced for such a long time to avoid being isolated that they refuted their own sexual inclination, or conformed to the super-virile model that had been imposed by society.

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## Chapter 8

# Sweden – Subtle control and growing homophobia

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*Jens Rydström*

**T**he prevailing picture of the situation for homosexuals in Sweden during the Second World War is one of progressive politics and gradually increasing tolerance. In fact, male and female homosexual acts, which had been prohibited since the adoption of the Penal Code in 1864, were decriminalised by the socialist-led wartime coalition government on 1 July 1944. This date is seen as a landmark for gay rights in Sweden, and is often referred to as the starting point for liberal homosexual politics (Silverstolpe et al. 1999; Löffström 2000).

But there is another, competing story. Persecution of homosexuals in Sweden intensified and took other forms during the war. At this time, homosexuality was increasingly seen as a medical problem and thus subject to medical regulation. Statistics show that the budding Swedish welfare state regulated homosexuality in an exemplary Foucauldian way by reducing the crudeness of the punishment but at the same time increasing the overall control (Foucault 1975). In this chapter I look at what ways new regulating mechanisms transformed Swedish biopolitics during the 1930s and 1940s and how the regulation of homosexuality took new forms. By means of statistics and an analysis of various discursive expressions, such as newspaper articles, parliamentary debates and court records, I shall re-evaluate the decriminalisation of homosexuality and offer an alternative interpretation.

### **Previous research**

There is a long tradition of research that questions the very foundations of the welfare state and pinpoints its regulatory and disciplinary effects. Beginning, perhaps, with historian Yvonne Hirdman's pioneering analysis of the Swedish welfare state's regulatory mechanisms, *Arranging life for the best* (1989), and reaching its peak during the debate about Swedish eugenics in the late 1990s, this research has reshaped the image of Swedish politics between the wars, expressly emphasising the coercive elements of the Scandinavian welfare state (Broberg and Tydén 1991; Runcis 1998; Tydén 2002). Hirdman's main argument – that the new regime, from the beginning of the 1930s, restricted the freedom to make individual choices and tended to regulate life in every detail – was further developed in a more recent theoretical work by historians Henrik Berggren and Lars Trägårdh, *Is the Swede a human being?* (2005). The two authors contend that it is the strong alliance between state and individual that enables the Swedish state to exert such control. The Swedish people's strong confidence in the state and their desire for consensus contribute to the low-conflict but singularly regulated Swedish society.

Parallel to this, the dominant historiography of Sweden during the Second World War has been challenged from the 1990s onwards. A growing number of researchers have questioned the so-called small-state paradigm, according to which Sweden, as a small country surrounded by powerful enemies, had few options but to try to stay out of the war and concede to the demands of Nazi Germany.

A new generation of researchers has adopted a more moralistic perspective, pointing out that Sweden had longstanding cultural and ideological ties with Germany, long traditions of anti-Semitism, and much sympathy for the Nazi project, which made it prone to yield to German demands. According to these researchers, many wartime concessions were made not of necessity, but because many Swedes harboured pro-German and pro-Nazi feelings (Åmark 2011; Boëthius 1991; Ekman et al. 2003; Koblik 1988; Johansson 2014; Löw 2004; Svanberg and Tydén 1997).

The history of homosexuality in Sweden has been studied from different angles since the early 1980s. Books such as Eric Thorsell's *Memoirs of a homosexual worker* (1981) and the many articles in Silverstolpe et al. *The discreet powers of sympathy* (1999) have greatly contributed to our knowledge of male homosexuality in Sweden. Greger Eman's work (1993) on lesbianism among intellectual women at the end of the 19th century and the first part of the 20th century also falls within that tradition, one of celebrating progress and a gradual liberation of sexual politics. A more Foucauldian and theoretical perspective was applied in Arne Nilsson's *Such people and real men* (1998) and my own *Sinners and citizens* (2003). Sara Edenheim's Butlerian analysis of Swedish state regulation of sexuality and gender in *Laws of desire* (2005) completed the turn to queer theory within Swedish historiography on sexuality.

## **Swedish legislation concerning same-sex sexuality**

Between 1864 and 1944, "fornication, which is against nature" (*otukt som emot naturen är*) was punishable with a maximum penalty of two years' hard labour, according to Article 10, Chapter 18 of the Swedish Penal Code. Unlike most other countries (but similar to Austria and Finland), Sweden also criminalised homosexual acts committed by women. This did not mean, however, that women and men were equally punished. In fact, hardly any women were brought to court. Between 1880 and 1944, more than 1 400 men were prosecuted for this crime, compared to only 10 women (Rydström 2003). Also for men, the number of prosecutions was initially rather low, between 10 and 20 prosecutions per year until the end of the 1920s, when it increased to between 30 and 40 prosecutions. While these numbers may appear to be low compared with other areas in Europe, we need to remember that the population of Sweden during this time was no more than 6 million people, and Stockholm had a population of only 500 000. From that perspective, the number of prosecuted homosexuals becomes significant.

Since the beginning of the 20th century, progressive physicians argued for the decriminalisation of homosexuality (Nyström 1904, 1919a, 1919b; Nycander 1933), and from 1933 onwards the question was being debated publicly and in the Riksdag, the Swedish Parliament. The general attitudes towards this phenomenon seemed to change rapidly, not least because of the influence of the popular sex reform

movement, which became increasingly accepted by the political establishment during the 1930s and 1940s (Ottesen-Jensen 1965). Also, the Social Democratic Party, which formed the government in 1932 and would be in power until 1976, held a modern view of sexuality, and introduced many reforms in the area of sexual politics. This meant, among other things, that they fully embraced the eugenicist arguments of the time. A 1934 book by the renowned social-democratic economists Alva and Gunnar Myrdal, *Crisis in the population question*, argued for a more efficient sterilisation programme.

It appears, however, that the policies towards homosexuals were not particularly influenced by eugenicist arguments but rather by a tendency to view homosexuality as a medical issue (Broberg and Roll-Hansen 2005; Rydström 2007). Swedish leading social democrats' attitudes to homosexuality were increasingly tolerant but they generally continued to view it as a medical and social problem. In 1933, influential child psychiatrist Gunnar Nycander published a book, *A disease that is punished*, in which he argued against decriminalisation before society had found the means to protect children and adolescents from the unwanted effects of homosexuality.

### **Changing discourses**

The beginning of the 1930s thus seemed to be a time of increasing tolerance towards homosexuals. In 1932, Sweden's largest daily *Dagens Nyheter* published a long feature article entitled "Homosexuality is an extremely fertile ground for blackmailers". The article, prompted by a widely publicised case of the blackmailing of a homosexual teacher, consisted of interviews with a number of influential representatives of the police and the legal and medical professions.<sup>148</sup> All six interviewees declared that homosexuality should be decriminalised – as was about to happen in Denmark – and expressed instead their concern that there was no law against extortion.

The interviewees believed that the existing combination of a severe law against homosexual acts and the absence of a law against extortion resulted in a situation where otherwise law-abiding homosexual citizens risked being blackmailed by young hooligans. They estimated that there were between 500 and 1 000 male prostitutes in Stockholm alone, and showed no sympathy whatsoever towards these young men.

In the article, forensic expert Olof Kinberg described them as "the very dregs of the parasitic and criminal elements that always gather in big cities," and several other interviewees agreed that it was the young prostitutes and blackmailers, and not the homosexuals, who were the problem. Several of the experts talked instead with compassion about homosexual men they had encountered during their practice. Professor of psychiatry Victor Wigert said he had met many such men and underlined that homosexuality had nothing to do with morals. "It is the expression of a pathological alteration of the sexual instinct," he said, "which can occur in ethically fully adequate individuals, as well as in common poor sinners and in those who are ethically defect". He told the reporter that most homosexuals he knew fought against

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148. On the blackmail affair, see *Dagens Nyheter*, 31 May-1 June 1932.



their sexual impulses, but depending on their sexual development, they usually failed:

And as criminalisation most often is inadequate for altering the course of nature, the homosexuals become victims of their own so-called victims, shady and criminal elements who often provoke sexual acts and then launch a ruthless blackmailing campaign against the unfortunate, with the Penal Code and public morals as efficient leverage.

The article mirrored the changing discourse among medical and legal experts at the time. On the initiative of the government, a law against extortion was adopted in 1934, and already in 1933 social-democratic member of parliament and professor of criminal law Vilhelm Lundstedt presented a private member's bill to parliament demanding the decriminalisation of homosexuality.<sup>149</sup>

## Decriminalisation

Professor Lundstedt's bill was unusually wide-ranging, and he used it to present his general ideas on the philosophy of criminal law, liberally referring to his own publications. He explained why the criminalisation of homosexual acts was illogical, both according to prevailing criminal jurisprudence and according to his own theories on criminology. His main argument was that there were no social gains to be made by a legal ban on homosexual acts: on the contrary. He insisted that homosexual acts, when committed by homosexuals, could not be considered fornication against nature: "Acting *in accordance with* one's drive cannot be said to be acting 'against nature.' This expression could rather be used, for example, if a homosexual would marry and force himself to have sexual intercourse with his wife". Finally, he pointed out that the law was used only against a small fraction of all homosexual acts and, "contrary to its tenor" was applied solely against men. Therefore, its application "hurts one's sense of justice, and also undermines the respect for the universal authority of the criminal law".

Professor Lundstedt's motion was favourably received by the majority in the Riksdag, but the government chose to wait on the reform until the whole chapter on sexual offences in the Penal Code was revised. The Criminal Law Commission published its report in 1937, proposing a number of other reforms in the area of sexual crimes, among them the decriminalisation of homosexuality (SOU 1935).

By then, it was clear that the Social Democratic Party was intent on revising the law and decriminalising same-sex sexual acts, but it did not govern alone. In 1936, it formed a coalition government with the Agrarian Party (Bondeförbundet) and the morally conservative Karl Gustaf Westman was appointed Minister of Justice. He remained in that post in the wartime coalition government, and managed to block the question of decriminalisation until his retirement in 1943.

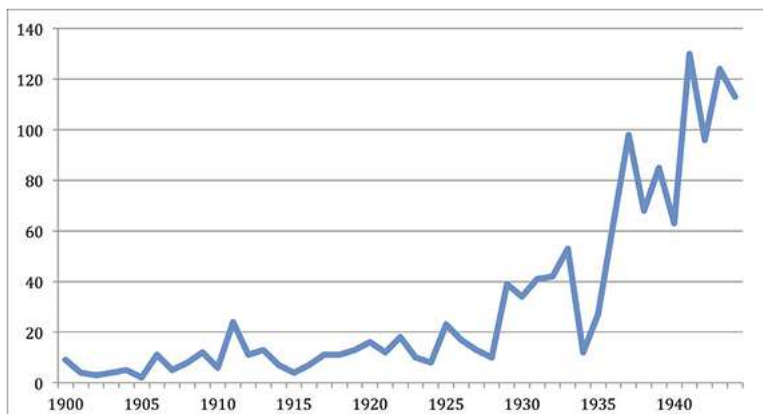
The year after Lundstedt presented his motion, the number of prosecutions for homosexuality fell from 53 in 1933 to no more than 12 in the following year (see Figure 10). However, prosecutions quickly reached former levels and well beyond. The number of homosexuals brought to court rose to an unprecedented 98 cases

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149. Swedish Parliamentary Print 1933. Private Bills to the Second Chamber, No. 1, Lundstedt.

in 1937. With ups and downs, this trend would continue during the war, with peaks in 1941 and 1943 (130 and 124 prosecutions respectively), until homosexuality was finally decriminalised on 1 July 1944.

**Figure 10: Number of prosecutions for same-sex sexual acts in Sweden, 1900-44**



Source: Court records from Swedish urban and rural district courts

### **Increasing anxieties and increasing policing**

Why, then, did the policing of homosexuality actually increase when decriminalisation was being prepared? So far, the explanation has been that anxieties provoked by the plans to decriminalise homosexuality were not unrelated to the general cultural and political unrest towards the end of the 1930s (Rydström 2003). But as we will see later, this intensified policing of homosexuality can also be seen as a reaction of police officers in the field against the liberal politics of the time.

The general anxieties were expressed in two different ways: first, a fear that if homosexuality was to be made legal, young people would run a greater risk of being seduced by older homosexuals; and secondly, a fear that all homosexuals would display their perversion more openly. The fear of homosexual seduction resulted in a higher age of consent for homosexual relations in the reformed 1944 law. Instead of 15, which was the legal age of consent for heterosexual relations, homosexual relations remained illegal with persons under 18 – or 21 if the younger person was in a situation of dependency on the older.

The second fear – that homosexuals would display their perversion more openly – could only be checked through increased policing; and, in fact, the Swedish police had hitherto remained remarkably slack in its surveillance of homosexuals, though the parks and places where men met to have sex had been known to the police forces of the three large cities in Sweden, Stockholm, Gothenburg and Malmö, at least since the end of the 19th century.

In the Stockholm police archives, there are reports from 1883 from zealous policemen who patrolled Berzelii Park, an area near the naval station.<sup>150</sup> The police registered

150. Överståthållarämbetet. Polisärenden. Kriminalavdelningen. Handlingar sorterade efter ämne. FIVb. Dossierer 1874-1905. (P.M. ang. sedlighetsförbrytare 1883-1900), Stockholm City Archives.

many men who were seeking erotic pleasures from other men, but they refrained from prosecuting anyone for homosexual acts, or even indecent behaviour. The reason for this was probably that the risk of apprehending a rich and powerful member of society was much too great, and in a small hierarchical society like Sweden's it might only mean trouble for the policeman involved.

This attitude would prevail within the police force well into the middle of the 1930s. Combined with the growing tolerance of homosexuals, the result was fewer prosecutions. Before the 1930s, the vast majority of prosecutions for "unnatural fornication" with a person of one's own sex consisted of child abuse or cases in which violence had been used.

By the end of the 1930s, however, the discourse had changed. Homosexuality increasingly became known to the general public as a tragic but also dangerous "disease". It was seen as a tragedy for the individual, but also as a threat to society, since adult perverts risked corrupting boys and young men. Even though there was a growing consensus in the medical and legal professions that it should not remain a crime, most experts agreed that it had to be checked and regulated by other means.

It seems, too, that the previous sympathy for law-abiding homosexuals who were victims of younger blackmailers had gradually vanished towards the end of the 1930s. The result was that the police began patrolling the gay cruising grounds more energetically, and consequently the number of prosecutions skyrocketed. In connection with the changed attitudes, the police also invented new measures of control.

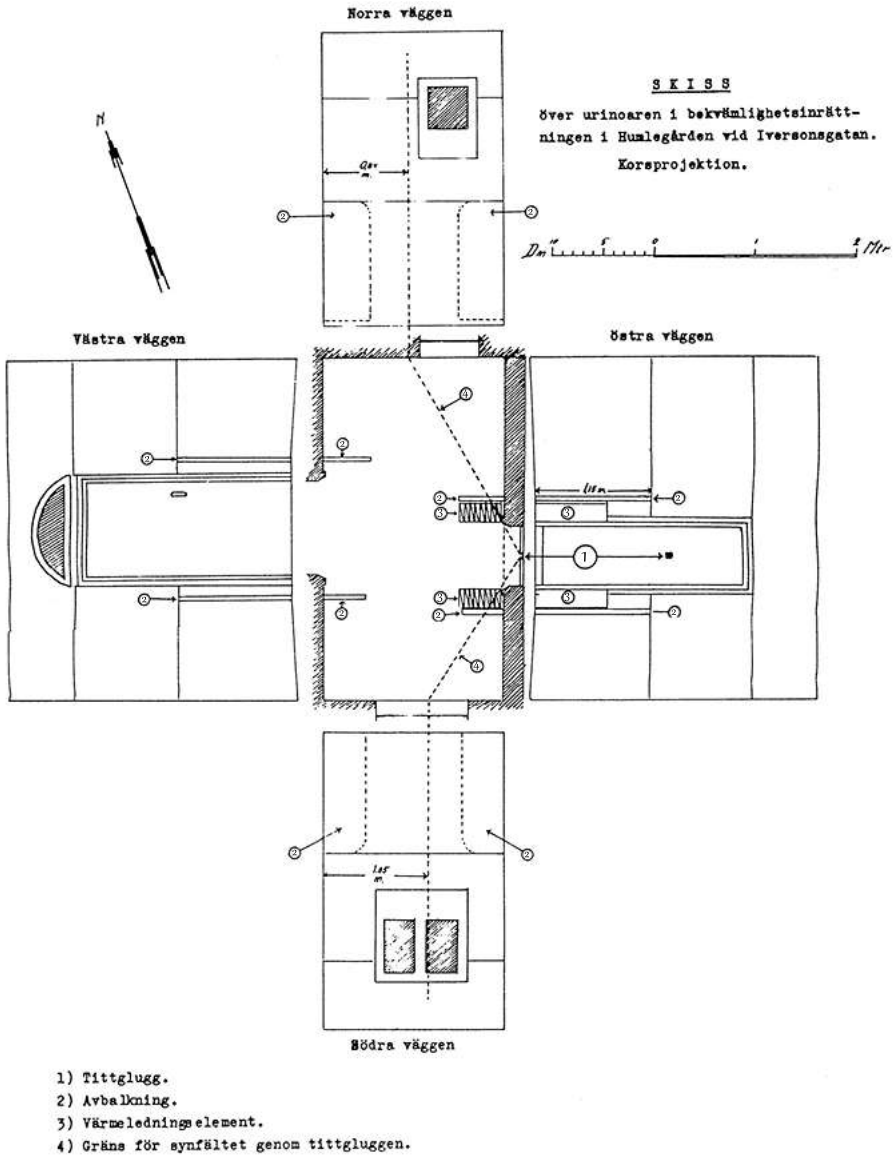
## Panopticon

In 1941, the staff of a public convenience in Humlegården Park in central Stockholm complained to the police that men used their facility to indulge in "unnatural fornication". The Seventh Police Precinct, which was in charge of security in the park, therefore arranged for more organised surveillance. They placed two policemen on guard in an adjacent washroom from which it was possible to keep watch over the urinal through a hole in the door.

Figure 11 shows a blueprint of the urinal, a document used as evidence in court. The sketch of the urinal was attached to the court records of the case in question. The rectangle in the middle is the floor of the urinal, and the four other surfaces represent the walls. The peeping hole is marked (1) and the broken line (4) indicates the policemen's field of vision. This lurid arrangement led to the arrest and prosecution of more than 20 men in the autumn and winter of 1941. If the men denied the charges, the police would testify in court, and since there were two policemen, their testimony was enough to obtain a conviction. The men most often got short or suspended sentences, but if they were caught more than once there was a genuine risk that they would be committed to a mental hospital. Also, they faced exposure and scandal just by being prosecuted.

In March 1941, a 54-year-old member of parliament who was also Ombudsman for the Armed Forces was caught in the act with a 23-year-old worker. While the worker had to serve his sentence of two months of hard labour, the upper-class man got a suspended sentence since the court took into consideration that he had to leave his post as military Ombudsman. Both of them denied the charges at first, and the policemen gave testimony in court. Only one policeman at a time could peep through the hole, so their statements in court were naturally a bit patchy.

Figure 11: Sketch of a urinal in Humlegården<sup>151</sup>



Source: Stockholm Magistrate's Court, 6th div., classified cases, No. 397, 1941, Stockholm City Archives

151. Translation of the sketch: "Sketch of the urinal of the public convenience in Humlegården, next to Iversongatan street. Crossprojection"; Norra väggen: North wall; Västra väggen: West wall; Östra väggen: East wall; Södra väggen: South wall. 1) Observation hole; 2) Partition; 3) Radiator; 4) Limit of the field of vision through the observation hole.

The following quote is lengthy, but gives a good impression of how the methods of surveillance had developed. What we read here is how the court clerk renders the sworn statement of one of the policemen, Officer Carlsson:

Behind the urinal there was a small washroom .... In a door, leading from said washroom to the urinal, there was a square opening, about five centimetres wide. The opening was equipped with a pane of glass. On the side of the door where the witnesses were posted, said pane was covered by a metal plate, movable to the side. Through this opening there was a view into the urinal. ... The defendants had been observed through the opening, through which only one person at a time could watch comfortably, first by witness Carlsson, and then by witness Johnsson, and then finally by witness Carlsson again. The two witnesses had looked through the opening for about the same amount of time. ... At the same moment, as witness Carlsson had the impression that the defendants had begun rubbing each other's virile members, he had noted the time on his wrist watch. Witness Carlsson had also requested that witness Johnsson check the time. When the defendants had been rubbing each other's members for a while, as previously described, they had suddenly stopped .... The witness had then left the urinal and ... arrested [the men] and brought them into the washroom. The witness had then again checked the time on his wrist watch and found that four and a half minutes had passed since he had looked at the watch immediately after the two defendants had begun working on each other's members. The witness calculated that the arrest ... had taken at the most half a minute, and consequently that [the defendants] had rubbed each other's members for four minutes.<sup>152</sup>

The meticulous description of time and space shows how crucial it was for the control mechanisms of the growing welfare state – including the police and courts – to produce solid cases on which to build its disciplining practice. In the long run, the new police and court practice would help lay the ground for the integrated self-discipline of the modern homosexual. It is hard to imagine a more telling example of Foucault's concept of panopticism, according to which modern society creates an architecture and systems of surveillance that allow for the monitoring of individuals, to see without being seen, and thus to produce the docile bodies that are necessary for modern biopolitics to function smoothly (Foucault 1975).

## **New categories before the law**

In Sweden, the new techniques of supervision were combined with new methods of interrogation, which in the long run resulted in new groups of people being brought to court. The rich and the powerful now began to appear because of the intensified surveillance in the parks, but new methods of interrogation also led to more prosecutions outside of the big cities. Instead of merely questioning the suspect about his latest sexual contact, as they had done before, the police now would interrogate each prisoner about every sexual contact he had had during the previous five years. In this way they could reveal networks of men, even in smaller towns with only a few thousand inhabitants. In the 1930s and 1940s, 12 such networks with more than 10 prosecuted persons in each were brought to court, in towns and

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152. Stockholm Magistrate's Court, 6th division, classified cases, file No. 184, 1941, Stockholm City Archives.

agglomerations ranging from Malåträsk, a tiny trading post in the north with 610 inhabitants, to the capital city with more than 500 000 inhabitants.<sup>153</sup>

This was also a time when the authorities were becoming increasingly aware of the existence of female homosexuality. Only three women were prosecuted for “unnatural fornication” before 1940. All those cases involved alleged sexual abuse committed by women on under-age girls.<sup>154</sup> This corresponds to how male homosexuality had been policed: court cases concerning same-sex sexuality before 1930 almost exclusively involved child abuse or rape.

From 1940 to 1944, however, seven women were prosecuted but only one of them for child abuse.<sup>155</sup> The most spectacular case was when five lesbian friends and lovers were brought to court in Stockholm in July 1943. The court records reveal how a group of working-class lesbians had organised their sexual life during the war. They had met in their workplaces, mainly restaurants, but also ammunition factories. Some of them had lived together and they all had had several partners over the previous couple of years.

The group was brought to the attention of the police after a violent row when one of them had fled the apartment and called the police. When the police arrived at the scene, two women were sleeping on a couch, “for which reason the constables were given the impression that they were perverse,” the police noted in the report. They would probably not have drawn such a conclusion a decade previously; but in the 1940s, lesbian sexuality was increasingly becoming part of common know-

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153. Falun Magistrate's Court, cases No. 167, 345 and criminal cases (Rannsakningsmål, RD) No. 23, 1929, Provincial Archives of Uppsala; Västbo Rural District Court, Extra Session (Urtima Ting, UT), case No. 1 of 19 May 1931, Provincial Archives of Vadstena; Jönköping Magistrate's Court, criminal case (Rannsakningsprotokoll, RP), No. 27, 1935, Provincial Archives of Vadstena; Halmstad Magistrate's Court, files No. 21, 22, 23, 24, criminal cases (RP) No. 3, 4, 1937, Provincial Archives of Lund; Göteborg Magistrate's Court, division 5, prison court, subdivision 2, cases No. 57, 63, 98, 106, 118, 128, 131, 1937, town hall court, subdivision 2, cases No. 514, 662, 667, 670, 688, 689, 715, 787, 790, 1937, Provincial Archives of Göteborg; Rural District Court of Gamla Norberg, Spring Session 1938, cases No. 135, 142, 184, 186, 187, 188, 189, 190, 191, Autumn Session 1938, cases No. 16, 131, Provincial Archives of Uppsala; Rural District Court of Östra Gästriklands Domsaga, Extra Session No. 9 of 27 April 1939, files Nos. 15, 16, 17 of 14 July 1939, No. 19 of 11 August 1939, Provincial Archives of Härnösand; Malmö Magistrate's Court, file No. 115, 1940; Malmö City Archives; Rural District Court of Malå and Norsjö, Extra Session No. 1 of 15 December 1941, Spring Session 1942, cases No. 41 of 20 January, 130 of 12 May, Provincial Archives of Härnösand; Stockholm Magistrate's Court, 6th Division, file No. 719/1941, 1942, Stockholm City Archives; Luleå Magistrate's Court, case No. 103/file 19, 1942, Provincial Archives of Härnösand; Göteborg Magistrate's Court, 6th Division, town hall court, case No. 280, Provincial Archives of Göteborg; Rural District Court of Jämtlands Västra Domsaga, file 5, 1942, Provincial Archives of Östersund; Rural District Court of Skellefteå Tingslag, Extra Session No. 1 of 13 June 1941, Provincial Archives of Härnösand; Skellefteå Magistrate's Court, cases No. 182, 561, 602, 1941, Provincial Archives of Härnösand; Stockholm Magistrate's Court, 7th Division, files No. 328, 628, 1941, Stockholm City Archives; Rural District Court of Sollefteå, file No. 102, 1941, Provincial Archives of Härnösand.

154. Västerås Magistrate's Court, case No. 240 of 19 March 1900, Provincial Archives of Uppsala (1 person prosecuted); Rural District Court of Northern Gotland, Extra Session, case No. 1 of 8 April 1925, Provincial Archives of Visby (2 people).

155. Rural District Court of Arvidsjaur, Spring Session 1941, case No. 5 of 25 February 1941, Provincial Archives of Härnösand (1 person); Stockholm Magistrate's Court, 4th Division, classified cases, file No. 334, 1943, Stockholm City Archives (5 people); Jönköping Magistrate's Court, file No. 91 of 17 April 1944, Provincial Archives of Vadstena (1 person).

ledge. In the end, all of the women were given suspended sentences, and when their crime was taken off the law books, on 1 July 1944, their probation was annulled.<sup>156</sup> The intensified policing that brought new case profiles to court was thus partly an effect of the construction of homosexuality in popular discourse, but it cannot be explained solely by this nor by abstract anxieties during that period.

There was also a concrete rise in homophobia at the time, which possibly had an effect on police practice. As an analogy to this, historian Mattias Tydén has established how the practical implementation of the laws on sterilisation from 1934 and 1941 went much further than the laws themselves called for. The instructions issued by the Royal Medical Board had already sharpened the language used and recommended that sterilisation be more widely used, but the actual practice in clinics and asylums was even more uncompromising (Tydén 2002). Likewise, when the policing of same-sex sexuality intensified during the 1930s, it was probably due to increasing homophobia in the police force, but, as we will see, the actual outcome of the trials was marked by the legal and medical professions' increasing perception of homosexuality as a disease.

### **Legislative reform**

Whereas the 1930s and 1940s saw increased police surveillance, sentencing became milder. Table 3 shows how same-sex sexual acts were subject to increasingly subtle measures of control. As more people were brought to court, the length of the prison terms decreased, the number of suspended sentences grew, and more convicted homosexuals were committed to mental institutions. It was, as it were, during this time that the Swedish welfare state built up a fine net of control mechanisms that would put its imprint on modern society and guarantee that the liberated homosexual would remain within the bounds of accepted behaviour (Rydström 2011; Edenheim 2005. See also Hirdman 1989; Berggren and Trägårdh 2005).

**Table 3: Number of prosecutions for same-sex sexual acts, number of convictions, suspended sentences, fines, acquittals, and number of persons committed to mental hospitals, with average length of prison terms in months, Sweden, 1920-44**

Year	Prosecuted	Convicted	Suspended sentence	Fined	Acquitted	Not accountable (Ch. 5 § 5)	Committed to mental hospital	Average length of prison terms in months
1920	16	4			11			12.18
1921	12	11	2		1			8.60
1922	18	16	2		2			9.25
1923	10	8	3		2			5.50
1924	8	6	1		2			8.66
1925	23	16	5		4	3	2	8.87
1926	17	14	4		1	2	2	6.64
1927	13	12	3		1			11.42

156. Stockholm Magistrate's Court, 4th division, classified cases, file No. 334, 1943, Stockholm City Archives.

Year	Prosecuted	Convicted	Suspended sentence	Fined	Acquitted	Not accountable (Ch. 5 § 5)	Committed to mental hospital	Average length of prison terms in months
1928	10	10	2					8.90
1929	39	30	18		9	4	4	7.07
1930	34	23	5		7	4	4	10.74
1931	41	17	7		21	3	3	8.35
1932	42	26	9		8	8		6.80
1933	53	36	15		11	5		6.87
1934	12	12	7					3.64
1935	27	22	5	13	2	3	3	4.00
1936	63	39	21	1	11	13	13	4.03
1937	98	62	22	3	12	21	15	4.27
1938	67	31	19	2	12	24	16	4.40
1939	85	66	43	1	7	12	11	3.37
1940	63	48	24	2	7	7	6	3.50
1941	130	91	65	6	17	19	13	3.86
1942	69	65	40	7	5	24	15	3.59
1943	124	81	46	12	21	22	17	4.36
1944	113	75	36	1	14	24	19	4.70

Source: Swedish court records from urban and rural district courts

Before decriminalisation finally took place in Sweden, three government commissions had prepared the reform. The first, from 1935, treated it as part of a larger project of modernising legislation on sexual crimes (SOU 1935), but the latter two, both from 1941, explicitly presented measures to combat “homosexuality’s anti-social effects” (SOU 1941a; SOU 1941b). When the government’s proposal was finally dealt with by the Riksdag, on 15 March 1944, there was a comfortable majority for legal reform. Article 10 of Chapter 18 of the Penal Code was rewritten, so that homosexual acts became legal if both persons involved were over 18 (or 21 if the younger party was in a position of dependency on the older). A new article, 10a, was added, which prohibited sex with a person of the same sex if he or she was mentally deficient, or an inmate of a “prison, jail, hospital, poorhouse, orphanage or other such establishment”.<sup>157</sup>

The question as to whether acts between women should be included in the new regulations had previously been debated within the Penal Code Commission. After sending out an enquiry to a number of persons assumed to have relevant information, the commission concluded that homosexuality seemed widespread also among women and that there were reasons to protect young women and girls from the advances of older homosexual women.<sup>158</sup> Consequently, the higher age of consent also became applicable for homosexual relations between women.

Changes were also made in the Child Care Act in order to permit the social authorities to take action against male prostitutes under 21, as well as in the laws regulating

157. Swedish Penal Code of 1864, Chapter 18, Article 10a, in force 1 July 1944.

158. Archives of the Penal Code Commission (Strafflagberedningen), file Homosexuality 1941-44, Swedish National Archives.



state-employed teachers and doctors, in order to make it possible to dismiss them if they violated the new law.<sup>159</sup> In the parliamentary debate, several members of parliament expressed their satisfaction that the harmful and anti-social aspects of homosexuality would now be more forcefully kept in check and youth more efficiently protected.<sup>160</sup>

## **Right-wing politics**

The Swedish homosexual legal reform, coupled with intensified police surveillance, must thus be seen in the context of modernity and the medicalisation of homosexuality, but there are also reasons to interpret it in the light of the influence that right-wing homophobia exerted on public opinion and especially, perhaps, on the police force.

Anti-Semitic attitudes among civil servants and the military in Sweden in the 1930s and 1940s have been studied before, and in recent years a number of research projects have investigated many aspects of Swedish politics during the war (Ekman, Åmark and Toler 2003; Byström and Frohnert 2013; Åmark 2011). The same is not true when it comes to homosexuality. There have not been any concerted efforts to study the rising homophobia in Sweden from the 1920s onwards, and only a small number of published works have directed any attention to this problem (Weijdegård 1995; Eman 1999b; Näslund 2009). More importantly, the combination of homophobia and anti-Semitism has never been studied as such, since individual researchers tend to look for each of these things separately when they study the sources.

Between the wars, however, xenophobia took on new forms and gained in strength: indeed, there is ample proof in the boulevard press that old prejudice against Jews and foreigners was combined with new contempt for and fear of new phenomena like jazz, modern art and the open display of homosexuality. In the 1920s, journals like *Fäderneslandet* (Fatherland), *Gnistan* (Spark) and *Vidi* helped spread anti-Semitism, anti-modernism and homophobia.

The strong workers' movement and the growth of non-profit associations, such as the temperance movement, the free-church movement and the trade unions, have been cited as explanations of why the Nazi ideology was comparatively weak in Scandinavia (Åmark 2011: 288). But there was nevertheless a strong anti-Semitic and pro-German legacy in the country. Ever since the 1920s, the idea that Sweden and Scandinavia somehow represented a "purer race," unperturbed by the migratory flows that were characteristic of mainland Europe, had influenced politics. So, for example, when the conservative government presented its proposal for a new Foreigners Act to parliament in 1929, it stated that, "The value of the fact that our country's population is of an unusually pure and unmixed race can hardly be over-estimated" (Svanberg and Tydén 1992: 267). On the popular level there were also many examples of Sweden's close bonds with Germany, and of many Swedes'

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159. Swedish Law Collection (Svensk Författningssamling, SFS) 1944 No. 168; SFS 1944 No. 167-71.

160. Swedish Parliamentary Print. Minutes of the Second Chamber, 15 March 1944, no. 10, p. 80; Minutes of the First Chamber, 15 March 1944, no. 10, p. 76.

sympathy for the Nazi ideology: these included the petitions signed by students in Uppsala and Lund, to protest against the “importation of Jews” in 1939, and the many Nazi sympathisers in the Foreigners Bureau, which was handling asylum applications and visas (Kvist 2000). The anti-Semitic smear campaigns in the boulevard press against Jewish citizens in the 1920s and 1930s are also well known (Andersson 2000).

Although homophobia in popular discourse is less well researched, it seems that it rose in the 1920s as the general public became increasingly aware of the phenomenon of homosexuality, regarded by many as a threat to the moral order and the purity of the population (Eman 1999a). The smear campaign against Swedish choreographer Rolf de Maré of the Swedish Ballet in Paris and his lover and solo dancer Jean Börlin in the 1920s is well documented, and helped spread hateful sentiments against homosexuals (Näslund 2009).

Both anti-Semitic and homophobic hate campaigns were staged by the Gothenburg-based journal *Vidi* (1911-32). It continued a long tradition of anti-Semitic propaganda also seen in the boulevard press ever since the late 19th century, but now added homophobia to the mix. Homosexuality had been a theme in Sweden’s boulevard press ever since the German Eulenburg Affair in 1907; in 1910 a domestic scandal was created when a well-known pewterer, Nils Santesson, who frequented the artistic circles of the time, was brought to court (Eman 1999a. See also Steakley 1990). But it was only after the First World War that homosexuals who had not been prosecuted became objects of scandal.

*Vidi* specialised in “outing” homosexuals in Gothenburg, thus provoking social disaster for them. On one occasion, its editor, Barthold Lundén, brought a gang of thugs to a homosexual party he had been informed about (Weijdegård 1995). The journal wholeheartedly participated in the anti-Semitic campaign against Isaac Grünewald, a successful Jewish painter and pioneer of modernism in Sweden<sup>161</sup> and in the homophobic hate campaigns against Rolf de Maré and Jean Börlin (Näslund 2009).

However, popular and official attitudes towards Jews and Judaism changed dramatically towards the end of the war, when Nazi atrocities came closer. The deportation of Norwegian Jews in 1942 was widely condemned in the Swedish press, and in October 1943, Sweden was prepared to receive over 7 000 Danish Jews in a large rescue operation.

There was thus a shift of opinion in 1942-43 that almost eradicated anti-Semitism in Sweden for a couple of decades, or at least forced it to go underground. But there was no such rapid change in attitudes towards homosexuality. Among the intellectual elite, there was a slow shift towards more tolerance and compassion for homosexual individuals, but a growing suspicion of the phenomenon as such remained. What was previously seen as an individual sin or crime was increasingly seen as a social evil. The two final government reports on homosexuality before decriminalisation both suggested means to counteract “the anti-social effects of homosexuality”, and the final legislation was aimed at protecting society from unwanted results of partial decriminalisation.

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161. *Sigrid och Isaac* [Sigrid and Isaac], Suecia Film, directed by Anders Wahlgren (2005).

However, there was not necessarily a tangible shift in popular opinion when the discourse of the elite changed. The intensified policing of homosexuality from 1935 onwards is a sign that the tolerant attitudes among legislators was not shared by police officers in the field, and the rampant homophobia of the 1950s shows that medicalisation did not necessarily lead to tolerance.

Legal practice in Sweden thus shows that the decriminalisation of homosexuality was not just a liberating move by an enlightened government. Instead, it was part of a larger development of modernisation, which worked for increased control of sexuality at large and the continued medicalisation of sexual aberrations. It was just the beginning of the disciplining of the modern homosexual.

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## Chapter 9

# The Great Patriotic War – Some respite in the USSR

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*Arthur Clech*

**W**riting a history of the persecution of homosexual men and women in the USSR during the Second World War is no easy matter. Access to the archives remains a problem.<sup>162</sup> In spite of Boris Yeltsin's decree of 23 June 1992 authorising the opening of the archives to shed light on the "mass repressions" in the USSR, access remains restricted: in March 2014 the interministerial committee for the defence of state secrets pushed back the date of full access to the archives of the Cheka, the NKVD and the KGB (the successive names of the Soviet secret police over the years) until 2044. The military archives are also closed. It took Russian historian Ira Roldugina six months to gain access to the file on the rounding up of 175 homosexuals in Leningrad in 1933-34 (Roldugina 2016). Her research brought to light valuable information on where they met, what they did, what they believed in and their desires, which they felt were legitimated by the decriminalisation of homosexuality by the Bolsheviks, and the refusal of some of them to denounce their peers. In addition, these files tell us a lot about the perception of homosexuality by the authorities, who rejected the biology-based approach that had prevailed in the 1920s.

The history of homosexuality under Stalin has been the subject of major sociological, anthropological (Kon 2003, 2010; Klejn 2000) and cultural studies (Karlinsky 1989). Their culturalistic and positivist approach verges on essentialism, the authors seeming to be at odds with contradictory pressures. On the one hand, they try to measure and explain homophobia in Russia in terms of it falling behind the "West" by arguing that Russia would have been in the same situation had it not been put on hold by the Soviet experiment. On the other, they adopt a new memorial perspective in response to the tenacious misconception that homosexuality is alien to the nation's history. They also offer clues as to how the Soviet legacy affects homophobia in modern-day Russia. These pioneering works in Russian attest to the difficulty of working on research of this type: their discursive strategy seeks to establish sexuality as a legitimate subject of scientific research, based on the authority of the European and American human sciences. In one pioneering work, art historian and activist

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162. We refer in several places in this chapter to Dan Healey (2001). We refer in particular to the Russian edition (2008) of this publication that, according to the author himself, is more exhaustive. On the period following the Second World War Healey (2014) was translated into French. Healey (2001) is the reference monograph, crucial for any socio-historical approach to homosexuality in Russia, but it does not give enough space to the expression of homosexual subjectivities. See also Clech (2013). In a recent article, Roldugina (2016) explored this area on the basis of extensive archival research.



Olga Zhuk (1998) asserts, based on the memoirs of political detainees from the 1930s to the late 1970s, that the origin of the lesbian subculture in Russia in the 1990s lies in the Gulag. Quoting eyewitnesses, she documents the authorities' aversion to homosexuality, which they associated with common criminality. A member of the St Petersburg intelligentsia, she idealises the pre-revolutionary lesbian subculture of the salons in order to scorn the homosexual subculture of the prisons. The Israeli sociologist of Russian origin, Adi Kunstman (2009), draws on Zhuk's research while offering an explanation of this distaste for homosexuality. It actually served as a social marker for political prisoners who sought to distinguish themselves through their cultural baggage. Openness about homosexuality was possible only in the camps. Between men or between women, it was seen as morally and aesthetically degrading and associated with the lumpenproletariat or common people. Prior to de-Stalinisation, political prisoners were still mixed with common criminals and were introduced to their world. To prove that they had nothing in common with people of that sort, who were portrayed as animals or monsters, they had to demonstrate their moral and aesthetic superiority, making any public show of sexuality impossible. They had to protect themselves from a "vice", the first violence of which was its visibility, considered a force of corruption, or even a threat to their identity.

There is no French historiography of homosexuality during the Stalin era. While the summaries in the *Dictionnaire de l'homophobie* are generally of a high standard, the entries on Russia or communism present major lacunae and include biased and ill-grounded opinions. One article blames the communist ideology for homophobia based on a totalitarian interpretation of Soviet history, the oft-repeated thesis of which might be summarised as follows: egalitarianism prevents any expression of difference, so the communist ideology is homophobic per se. The criminalisation of sodomy by Stalin is purported to support that thesis (Albertini 2003: 103-6). Taking stock of research to date, there is no evidence that the Second World War led to any intensification of the persecution of homosexuals in the USSR. On the other hand, as in any country at war, the "Great Patriotic War" (June 1941-May 1945) no doubt encouraged homosexual practices. We shall show, first of all, what new outlook on sexuality was possible in the 1920s, before homosexuality was recriminalised in 1934. Then we will look at how war permitted moments of sexual freedom for women and men in spite of a rigid framework, only to see these freedoms disappear again when the war ended. When the thaw set in, while a kind of sexual freedom can be observed in behaviours, homosexuals faced social control through the combination of penal and medical means of repression.

### **Homosexuality in pre-war USSR: from a field of possibilities to persecution**

A new outlook on homosexuality emerged in the USSR in the 1920s. It was decriminalised by the Bolsheviks in the criminal codes of 1922 and 1926. This was an intentionally revolutionary step that, along with the authorisation of abortion and the introduction of a right to divorce by a procedure as simple as that for a civil marriage, marked a break with the tsarist regime. With no "taxonomy" at all, to borrow the terminology of Foucault, the innovative neutrality of the wording of these criminal laws made it possible to address sexuality and gender without any need for

specification.<sup>163</sup> In other words, this legal neutrality implied a stance: it was a refusal to identify sexual crimes in gender-specific terms, what one might qualify as a “queer” approach, if the anachronism can be excused. Commenting on a photograph she found in the archives, Roldugina relates the testimony of homosexuals caught in a police raid when they were meeting in a flat in Petrograd in 1921.<sup>164</sup> The homosexuals concerned were of all ages and from every walk of life and, quick to note the absence of anti-sodomy laws and therefore convinced that they had done nothing wrong, asserted their rights and were eventually released by the police.

Generally, as in other countries of Europe, homosexual men and women of the time might consider that they were affected by some congenital biological abnormality or disease (“psychopathology”). That explains why some of them consulted psychiatrists of their own free will. In fact, psychiatrists were given recognition under the Bolsheviks that they had never enjoyed under the tsarist regime (Dufaud 2014). These doctors paid little attention to psychoanalysis, even though it was quite widespread in the 1920s, and generally preferred theories according to which homosexuality was caused by hormonal disorders. Forensic medicine had been transferred from the justice department to the health department to prove its independence (Healey 2009).

During an official visit to Berlin in 1923, Nikolai Semashko, the head of the health department, was able to extol the progressive nature of Soviet legislation in a country where sodomy was still a crime (Healey 2008: 153). The doctors gradually came to work as experts at the service of the state: this transfer of powers from one ministry to another appeared quite formal by the 1930s (Healey 2009). In the provinces, however, homosexual practices between consenting adults could give rise to judicial proceedings: in 1927, in Vladikavkaz, a deacon was accused of having a liaison with a White Army officer in public proceedings designed to unmask the “depravity” of the ruling classes of the old regime (Healey 2008: 187-93). Furthermore, in the Caucasian republics, with the exception of Armenia, and in the republics of central Asia, male homosexuality carried a prison sentence: among other people, this law targeted traditional young male prostitute dancers called *bachi*, sold into prostitution by their parents (ibid.: 193-7). Effeminacy was considered a mark of backwardness at the time, while masculinity was considered modern. So a “manly” (*muzhepodobny*) woman (Healey 2008: p. 175-177 and 218) might be shown consideration by the regime. The Bolsheviks scarcely gave any thought to homosexual desire in political terms, although Alexandra Kollontai, whose ideas were widely known even if they did not reflect the opinion of all Bolsheviks, did brandish emancipated sexual desire as a condition of revolution. Homosexual desire was not yet frowned upon in literature, and authors like Mikhail Kuzmin and Sophia Parnok could freely sing their homosexual love in their poems, published until 1929 and 1928 respectively.

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163. The laws on sexual crimes were drafted in such a way that both victim and offender could be men or women. Only Article 171 of the Criminal Code of the RSFSR of 1922 punished procurement of prostitution of “women”. See Healey (2008: 404).

164. See photograph at <http://oteatre.info/rannesovetskaya-gomoseksualnaya-subkultura-istoriya-odnoj-fotografii>, accessed 30 June 2017, and Roldugina (2014, 2016).

The re-criminalisation of male homosexuality was endorsed in 1934 with the approval of Stalin, who refused to use the same terminology as Ukraine's recent anti-sodomy law, which contained a special article punishing male prostitutes who plied their trade in the streets.<sup>165</sup> There are few documents that explain the reasons behind the reintroduction of the crime of sodomy. In the correspondence between Yagoda, head of the state political police (the GPU), and Stalin, Yagoda denounced "the corruption of young people" and the young sailors he called "pederasts", whom he considered a threat to state security.<sup>166</sup> In May 1934, Harry White wrote a letter to Stalin. An active member of the Communist Party of Great Britain and Editor of the *Moscow Daily News* in post in Moscow, he was worried about his companion, a victim of a police raid in Moscow. He used communist reasoning in defence of homosexuals, presenting them as victims of a form of oppression comparable to sexism, racism and anti-Semitism. After reading the letter, Stalin wrote in the margin "Idiot and degenerate" and ordered it to be filed away.<sup>167</sup> An article by Maxim Gorki took the form of an ideological reply to the communist dissident's letter. It legitimised the criminalisation of homosexuality as a means of preserving the health of the Soviet proletariat, unlike the German people, who were prey to alcohol, syphilis and homosexuality, which all led to degeneracy (Gorki 1934). He summarised his thinking in a genocidal appeal: "Exterminate homosexuals, fascism will disappear". So homosexuals were identified as traitors in the USSR at a time when the Soviet society of the 1930s was mobilised as only a society at war could be. Several works on homosexuality in western Europe or the United States have described how homosexuals were assigned the role of traitors to the nation whenever war reared its head (the two world wars) or international tension was heightened (the Cold War and McCarthyism) (Chauncey 2003; Loftin 2007; Tamagne 2008). The re-criminalisation thus occurred in a context of demographic panic, against the background of patriotic mobilisation against Nazi Germany. Furthermore, social upheavals caused by the rapid industrialisation of the country threatened to get out of control: control over the population in the cities was reinforced *inter alia* by the introduction, by a decree of 27 December 1932, of an internal passport for all city dwellers over 16 years of age, as a means of purging the cities of any undesirable elements, including homosexuals, against whom raids would be organised in 1933 and 1934.

Thus far a very sketchy count of convictions indicates that between 25 688 and 26 076 people were charged with sodomy between 1934 and 1993 (Healey 2008: 311-16). This does not count those homosexuals who, like the poet Nikolai Klyuev, were convicted of other offences, such as anti-revolutionary propaganda, although the real reason for their arrest was clearly their homosexuality (ibid: 233). In the USSR,

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165. It was doubtless important not to publicise the existence of this male prostitution, which had taken more or less the same form since the end of the 19th century. A minimum sentence for consenting relations was set at three years to make sure homosexuals were sent to labour camps rather than ordinary prisons. See Healey (2008: 227).

166. Published in 1993 as an argument in favour of decriminalising homosexuality.

167. *Zapiska G.G. Yagody I.V. Stalinu* [Note from G. Yagoda to J.V. Stalin], No. 50911, 13 December 1933, A.P.R.F. [Archives of the President of the Russian Federation] Section 3, inventory 57, file 37, pp. 25-7. Certified copy in the journal *Istochnik* 5-6, 1993. The letter was translated into English in Young (2012).

homosexuals and prostitutes alike were sent to labour camps for rehabilitation. The political nature of convictions for homosexuality can therefore be seen in the treachery homosexuals were considered to embody, as any aspect of social life over which the authorities had no control was considered suspicious. To begin with, homosexuals were treated as spies. Also, the construction of a mindset specific to the neo-traditionalist Stalinist policy is apparent in the reassertion of a gender dichotomy as a contrast to the policy implemented in the 1920s. In the USSR, as in France, there was the perception that male homosexuality was a betrayal of the very idea of masculinity. Masculinity was identified in the Soviet manner with the “health” of the “proletariat” (Gorki 1934). At the same time, psychiatrists treated homosexuals as psychopaths, suffering from a disease for which there might be a cure. Stigmatised as socially alien elements, homosexuals and prostitutes personified the remnants (*perezhitki*) of a bygone decadent era and could therefore belong only to a capitalist West or to a backward East. Their continuing existence spelled failure for a would-be modern regime.

### **More freedom for discreet relations in wartime**

According to a recent discovery by Roldugina, before the Great Patriotic War, at the end of 1939, the persecution of homosexuals on a massive scale had been envisaged by the Politburo, although no details of that discussion have yet become accessible. Among numerous other examples of sentences commuted in sodomy cases between 1935 and 1941, Healey (2008: 264) mentions a case of homosexual rape committed by a certain Andreyevskiy, whose sentence the Supreme Court reduced from six to five years on 10 June 1941. Is this a sign that a depoliticisation of sodomy was already under way, considering that no accusation of plotting or spying is mentioned in Andreyevskiy’s 132-page case file?

In any event, with the Nazi invasion from June 1941 onwards, the country’s disorganisation made such strict policing of morals as before impossible. In dire straits, the population rose to the challenge, organising themselves better and reclaiming some of their lost freedom. Censorship weakened, particularly against film-makers and writers. Based on diaries and memoirs, Oleg Budnitskii (2011) tells of a new sexual freedom among the men and women contributing to the war effort, on the front as well as back home. Officially, however, the men and women at the front did not have the right to keep diaries. When they did, they covered their tracks, for fear of being compromised. The memoirs published later, after 1990, for example, sometimes discuss the taboo subject of sexuality. One phrase from the memoirs of Nikulin, a famous actor who fought in the war, neatly sums up the soldiers’ three main topics of conversation and preoccupation: “grub, sex and death” (2008: 153). Special efforts were made to feed the men and women fighting on the front to maintain their health: far more than in the Gulag, where physical exhaustion overcame the detainees. Particularly in wartime, the army was the institution that produced the most homosexual activity. It should also be noted that, unlike the Allied troops, Soviet soldiers were given no leave. In contrast to the other belligerent states, Soviet Russia seems not to have really controlled its soldiers’ sexual activities. It is also worth noting in this connection that the Red Army had almost 800 000 women fighting at the front (Ivanova 2002: 35) compared with the much smaller numbers of women in the

other armies. The presence of all these women suggests that there may well have been female socialising at the front lines as well, and that like with men, homosexual activities may well have developed when so many women were thrown together. It is likely that the authorities ignored practices that they had previously punished, just as they closed their eyes to many other liberties the Soviets allowed themselves during the war years. Some questions remain unanswered. Did some soldiers not jump at the friendship and camaraderie at the front so touted in the official propaganda, as a chance to disguise their homosexual relations? Did the alcohol so liberally handed out to the soldiers to encourage heroism not help them give freer rein to their desires, including their sexual desires? Among the common criminals released to be sent to the front, how many had been convicted under the anti-sodomy article? Were these men, sent off as cannon fodder, not further exposed to sexual abuse, or even rape, considering that violence was a prime component of their social relations? Was such sexual violence hushed up, just like homosexual rape was by the Gulag authorities? In general, did the strict hierarchy of the Red Army give rise only to the sexual exploitation of women and not of vulnerable young men, like in the camps? In what ways did the trivialisation of violence that certainly marked sexuality in the camps also affect that of male and female soldiers at the front, and was it different from the sexual violence inflicted in the labour camps?

Those who returned from the front were badly shaken by the world of extreme violence they had endured. The large number of rapes committed after the war would testify to that legacy,<sup>168</sup> as did people's perception of the women who came back from the front – they were looked at askance, as they were believed to have engaged in all sorts of sexual debauchery.

### **The post-war period: a “thaw” for homosexuals?**

The margins of manoeuvre that were beginning to open up shrank again at the turning point in the war, from 1943 onwards. And the post-war period was a step back in time: strong blame fell on those who had been given a little respite during the war. The poet Akhmatova – who called herself a poet rather than a poetess, using the masculine form of the noun – was accused by the chairman of the Soviet of the Union, Andrej Zhdanov, in 1946 of being “a nun or a whore, or rather both a nun and a whore who marries indecency with prayer” (Zhdanov 1946). Successive campaigns were launched, including the much-publicised campaign against cosmopolitanism that condemned the Jews, accusing them of treason. On their return to the USSR, the Red Army soldiers taken prisoner by the Germans were suspicious in the eyes of the authorities. They were sent to the Gulag, which only prolonged their experience of an all-male environment, which was certain to encourage homosexual practices.

Following the death of Stalin in 1953 and at the initiative of Khrushchev, Soviet lawmakers revised the Criminal Code, amending and abolishing many laws from the Stalin era. At the same time, however, the anti-sodomy provisions in Article 121 were strengthened, and were not repealed until 1993. In 1958 the Russian Interior

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168. Concerning a later period, Healey carried out a detailed study in 2012.

Ministry published a secret directive, still aimed at “toughening the fight against sodomy”.<sup>169</sup> The new Criminal Code was adopted on 27 October 1960. While the minimum sentence for male homosexuality was done away with, the penalties imposed in practice did not become any more lenient. According to Healey (2008: 312), the release of 4.5 million people from the camps caused the authorities to fear that homosexual practices would spread throughout the country. The homophobia of the Soviet state was openly expressed at the highest level of authority: in 1962 Khrushchev visited an exhibition of avant-garde artists and called them “pederasts” before seeking their expulsion from the Artists’ Union and the Communist Party. The First Secretary of the Party also urged the Soviet people to take up the initiative at grassroots level; volunteer militias (*narodnye druzhiny*) could take to task any person whose appearance they thought did not comply with the standard Soviet dress codes of the period. The nocturnal strolls still frequent in the 1920s, which Kuzmin (who died in 1936) describes in his diary, were probably much less frequent after the war. Fixed meeting places, or *pleshki*,<sup>170</sup> however, were part of a Soviet homosexual subculture in the major cities, near the Bolshoi in Moscow, for example, or in the Catherine II gardens in Leningrad, where the toilets were a meeting place reminiscent of those used in other European countries or in the United States at the time. After the war such places were kept under increased surveillance by the police and were sometimes infiltrated by informers, it being no secret that homosexuals were vulnerable to blackmail. It became more difficult to advertise one’s homosexuality by one’s appearance in public, however discreetly. Improved living conditions and wider access to individual housing, on the other hand, made it easier for homosexuals to meet in private.

Several accounts from the late 1940s and the 1950s show increased investigative professionalism. It appears that the police made more frequent use of forensic science and psychiatric techniques in sodomy cases. Twenty years after the war, from 1961 to 1971, there was a 40% increase in charges of sodomy, which illustrates the “efficacy” of the tandem formed by the police and forensic medicine. Is it possible, therefore, to speak of a “thaw” for Soviet homosexuals and lesbians, considering that the psychiatric repression of homosexuality was gradually setting in?

It is important to picture the history of homosexuality in the USSR during the Second World War in the long-term perspective of Soviet Russia. Liberalisation, political repression, a measure of tolerance in wartime giving a degree of respite, medical treatment – homosexuals were treated in many different ways over the decades. Social disapproval still remains very strong today, making it difficult to take a more detailed look at the days of the Great Patriotic War. Because society is still very much in awe of that war today, homosexuality, seen at worst as a betrayal and often as a challenge to masculinity, is still not considered a legitimate research subject, and access to sources remains complicated.

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169. See Healey (2015). Healey has discovered a document on the subject thanks to Emily Johnson, in the GARF, f. 9412, op.1a, d. 608, ll. 90-91.

170. Public places in the city centre (a park, the area round a station or monument, and the public toilets there) where they could meet more or less anonymously.

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## Chapter 10

# Punishing homosexuals in the Yugoslav Anti-fascist Resistance Army

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*Franko Dota*

**D**uring the first winter of the Second World War on Yugoslav soil, in late 1941, Milovan Djilas – one of the most prominent figures of the Yugoslav anti-fascist resistance movement – faced an unusual dilemma. He had been a leader of the communist youth organisation at the University of Belgrade, where he studied law and philosophy. But when he headed to war, he could not even have imagined that, among the many political and military choices he would have to make, he would be called upon to decide upon the fate of a homosexual man.

The young man in question was a communist and a Partisan fighter, quite like Djilas himself, who was then 30 years old. Djilas came across him somewhere in the mountains of Sandžak, a region with a considerable Muslim ethno-confessional population, which had been until 1912 part of the Ottoman Empire. Since then, it had been divided between Serbia and Montenegro.

In April 1941, following the Axis invasion and partition of the Kingdom of Yugoslavia, Serbia was occupied by Nazi Germany, while Montenegro came under Italian control. Two months later, the leader of the Communist Party of Yugoslavia (KPJ), Josip Broz Tito, called for an uprising against the fascist occupation. His orders were to raise the initial level of resistance from diversions and acts of sabotage in urban centres to guerrilla warfare in villages, forests and the mountainous parts of the country (Petranović 1988: 86). Following Tito's instructions, communist leaders in the field started to gather the first armed Partisan units, the core of the future People's Liberation Army of Yugoslavia (NOVJ), which in 1945 would march victoriously into the liberated cities all across the country.

From the very beginning, the communists also aimed to thoroughly transform both the state and the economy. Yet they were cautious and opted to call their struggle the National Liberation War (NOR), since this expression had a much stronger appeal to the masses than the phrase "socialist revolution" (Calic 2013: 83; Petranović 1988: 75-9). By the end of 1941, the resistance movement had ignited in central Serbia, Montenegro and parts of Croatia and Bosnia and Herzegovina. The heart of the resistance consisted of several tens of thousands of Partisan fighters scattered throughout Yugoslavia, mostly pre-war communists and members of the youth wing of the Party (SKOJ), headed by International Brigade veterans returned from the

Spanish Civil War, and a handful of officers from the defeated Royal Yugoslav Army (Petranović 1988: 80).

In the autumn of 1941, as a member of the inner circle of the communist leadership, Djilas was put in charge of the Partisan press and propaganda in liberated central and western Serbia (Djilas 1977: 97-120). However, this first territory to have been ruled by insurgent forces did not last for long. Just over two months after its liberation, Tito's Partisans were driven out from most of Serbia by a German counter-insurgency offensive. Together with approximately 2 000 defeated volunteers, Djilas withdrew south to the mountains of Sandžak (Petranović 1988: 111-12, 142-3).

Sometime in December 1941 or January 1942, Rifat Burdžović, a Communist Party and resistance leader in Sandžak, notified Djilas about a discovery made in one of the Serbian Partisan battalions: "a certain Muslim, a good soldier and a zealous Communist" had been exposed as "a homosexual". Burdžović was a prude – or at least that is how Djilas described him in his war memoirs published in 1977, the only known account of this episode – and could not decide whether or not he ought to "execute that 'freak'" immediately (Djilas 1977: 127).

Communist leaders were in the habit of repeating how important self-control was, listing all kinds of virtues to be found in a communist: self-sacrifice, modesty, discipline, vigilance and sexual respectability. The importance of firmness and sternness in "the private life of a communist" was continuously emphasised in the KPJ underground press even before the war. In the 1930s, Tito had explicitly addressed these qualities in various articles. He often listed a range of character traits expected in a communist. Many pertained to their private life, such as in the following:

Every single member of the Party has to be impeccable in his private life. His political work cannot be separated from his personal life. This is a paramount condition that a communist has to fulfil in order to gain the trust of the masses. Disheartened men, drunks, blabbermouths, *debauchers* [emphasis mine] etc. have no place in the Party (Broz 1968: 636).

However, this puritan moral and sexual code had a specific political purpose. It primarily served as a shield from the many innuendos made by political enemies that tried to portray communists as hypocrites and debauchers. In the interwar period, European conservative and fascist political movements attempted to contain the Bolshevik revolutionary turmoil within Soviet borders by, for instance, depicting communists as sexual offenders, libertines, promoters of "free love" and abortion, and destroyers of the traditional family (Herzog 2011: 49).

In order to defend themselves against such accusations, communist organisations carefully watched over their members' sexual and private lives so as not to allow a handful of "bad" examples to be used as a way to demonise them all. This was the main reason for Tito's establishing a rule that would have to be obeyed in the upcoming war: as a communist's personal life does not belong to him or her alone, the Party will "keep track of each of its members' intimate conduct" (Broz 1946: 90).

Moreover, in their aspirations and efforts towards a revolutionary transformation of society, communists were expected to provide a role model for the people. Masculinity, moral impeccability and the fighting strength of soldiers, officers and heroes of the National Liberation War became items of national awareness and patriotic concern,

a component of a new culture of worshipping Partisan and communist moral and physical (male) superiority.

However, before the war, Yugoslav communists had not developed an established disciplinary practice for cases of homosexual behaviour, and Djilas was unable to give Burdžović an answer to what was to be done with the young Muslim. As he found necessary to emphasise in his memoirs: “Marx and Lenin never wrote about such matters” (Djilas 1977: 127).

At the very beginning of the resistance, Partisan wartime military justice was not yet clearly structured; there were no defined jurisdictions, nor was there a system of prescribed crimes and punishments. Thus, the first trials were held without defined procedures and rules, and managed ad hoc by military commanders or communist political commissars (Cotič 1974; Petrić 1962). Meanwhile, Tito’s General Staff issued an order to all Partisan troops “to establish, if they have not already done so, military tribunals” that would judge civilians and soldiers for espionage, treason, desertion, theft and murder.<sup>171</sup> However, at that time, these tribunals were still not authorised to prosecute “indecent or immoral” behaviour.

Such blind spots, combined with a lack of conventional procedures in practice, caused dilemmas and different opinions as to what to do with the discovered homosexual. Burdžović was convinced that the man should be shot, but Djilas was reluctant. Finally, he opted for a more humane approach than the one proposed by his subordinate: he expelled the homosexual from the Communist Party, but permitted him to continue to fight. This is what Djilas wrote about his decision:

Nevertheless, while my common sense led me to conclude that not only bourgeois decadents but proletarians too were subject to such vices, I decided that no pervert could hold positions or be party members. So Burdžović ordered the poor fellow to resign from the party. The fellow confided to Burdžović, in tears, that a dissolute Muslim bey had seduced him as a boy. I learned later that this homosexual, who was the very picture of masculinity, was exceptionally courageous and that he fell bravely (Djilas 1977: 127).

This short paragraph from Djilas’s memoirs actually reveals a lot more than the mere fact that Yugoslav communists expelled homosexuals from their ranks. Any different approach is hardly imaginable, let alone one that would go against the grain with regard to the deeply rooted, extremely negative social attitudes towards same-sex attraction. There were few, if any, social movements or parties in the European political landscape and political culture in general, left or right, that would easily accept homosexuality on the part of one of its members.

However, there is something to Djilas’s story that makes it much more valuable than does the predictable conclusion about the KPJ wartime stance on same-sex sexual practice. It is not enough to focus solely on the two main figures; rather, one should take into account all four of the characters. Indeed, alongside two of its protagonists – a homosexual Partisan fighter and a highly positioned communist official and

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171. *Zbornik dokumenta i podataka o Narodnooslobodilačkom ratu naroda Jugoslavije* [112-volume collection of documents on the Yugoslav National Liberation War, hereafter abbreviated as *Zbornik NOR-a*], *Bilten Vrhovnog štaba NOVJ*, Vol. II, Book 1. Vojnoistorijski institut, Belgrade, 1949, p. 114.

ideologue called upon to determine his destiny – the story presents us with two antagonists: a middle-ranking member of the Party, the relentless and somewhat fanatical Rifat Burdžović, and the lecherous bey, the main culprit, the corruptor of youth. In the background, there are Marx and Lenin, combined into a single “character” that (supposedly) never wrote on “such matters”, thus leaving everything to Djilas and his “common sense”, personal empathy and mercy.

This short story offers much more when analysed as an intersection point of four distinct discursive nodes where Djilas’s ideological, class, ethnic and gender position and perspective meet.

The ideological level is the most transparent one: homosexuality is a vice, not an inborn or congenital condition. It is primarily found among “bourgeois decadents”, namely, members of a failed and overindulgent class. In the early to mid-20th century, some communist and leftist circles believed that homosexuality stemmed from a decadent and aberrant social order, that it represented bourgeois individualism and aristocratic hedonism, and was completely at odds with the interests of the morally and physically healthy working classes (Hekma, Oosterhuis and Steakley 1995: 25-7). This deeply rooted belief was partially the result of an oversimplified and vulgarised interpretation of Marxist views on sexuality that saw the exploitative nature of bourgeois society as the source of all sexual abuses and inequalities (ibid.: 26-8; Engelstein 1995; Evans 1987).

However, despite his rigid ideological presuppositions, Djilas was quite aware – because common sense told him so, but also perhaps because he had seen it with his own eyes – that homosexuality could likewise be found among the exploited classes. Yet, he was seemingly also convinced that homosexuality was, at least in some instances, a consequence of privileged men seducing naive and pure peasant or working-class adolescents. At this point the ideological discursive node intersects with another that sees class as the primary culprit.

The young man was susceptible to the vice because of class inequality between the partners: he was a poor, presumably uncorrupted proletarian who was defiled at the hands of a bey as “dissolute” and decadent as the bourgeoisie itself. The motif of exploitation as the cause of homosexuality is once more mirrored in the age difference between the partners: the older man is depicted as having corrupted a poor youth. In Djilas’s story, it is the older and privileged man who is considered responsible for his younger partner’s homosexual behaviour.

The image of a sexually immature and vulnerable youth falling prey to the spiritual and sexual influence of an older, wealthier man was concocted in various European sexual cultures – in conservative or Catholic milieux and among the working classes and in socialist literature – and often used to promote the image of the homosexual as an insatiable monster.<sup>172</sup> The homosexual man was therefore regarded as “the

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172. However, it is important to remember that not everybody in leftist circles subscribed to opinions such as these. There were many influential voices calling for decriminalisation of homosexuality. August Bebel, Eduard Bernstein, Karl Kautsky, to name a few, lent their support to the first organisations for homosexual emancipation in early 20th-century Berlin. This tradition of thought cleared the path for the decriminalisation of homosexuality in Lenin’s Bolshevik Russia in 1922, in an atmosphere of more permissive and modernising views on sexuality in general. See Herzer (1995), Healey (2001), Engelstein (1995).

antipode of the healthy manliness of working-class males and symptomatic of both bourgeois decay and economic collapse. ... Considered effeminate and bourgeois, visible homosexuals were far removed from the socialist ideal of manhood" (Hekma, Oosterhuis and Steakley 1995: 26-8). The homosexual act was perceived as exploitative, since it was conceived as the result of a privileged man – richer and/or older – seducing for his own pleasure an innocent and credulous youngster. This perception had to be backed up by a reverse one: the image of a simple-minded adolescent, recognisable for his insufficiently resilient (hetero)sexuality and character, always under threat from various temptations, susceptible to depraved and unhealthy bourgeois influence.

Substantial leverage against homosexuality was provided by the constant anxiety about the physical and psychological development of the youth – a palpable symbol of the bright future of the nation and the working class – which, if corrupted, if morally and physically weakened, would not have the strength to confront foreign and class enemies. This fear was further fostered by medical theories on the psychogenic and biosocial causes of homosexuality (Rosario 2002: 45-6, 55, 59-63). The hypothesis that young people were in a constant danger of "homosexual seduction" was mainly based on the influential psychoanalytical axiom according to which same-sex sexual attraction originates in childhood or early adolescence (Healey 2001: 138-42, 184-5).

The ethno-confessional level is revealed through a combination of facts: Serbian fighters denounced a Partisan of Muslim ethnic background for his homosexuality, but the real culprit for his affliction is yet another Muslim, the bey. As the anthropologist Tea Škokić (2011: 109-10) argues, in Balkan folklore and popular erotic tradition, homosexuality is largely attributed to those who are "above" or "different"; that is, to those who hold a higher position on the social scale or come from a different ethnic group and/or religion, with Muslims frequently associated with same-sex sexual proclivities and sodomy, labelled as a "Turkish custom" or "vice" (ibid.; Ivanić 1984: 214-29).

Initial historical research on homosexuality in 19th-century Serbia describes an image of a virtuous and pure Christian Serbian countryside with its strong men as leaders of national uprisings. Their masculinity was triumphantly brandished as a symbol of victory over the lecherous conquerors, the de-masculinised Ottomans, culminating in an idea that "homosexuality was passed on from the Turks" (Jovanović 2014: 45-9). A condensed cluster of sexual stereotypes of Bosnian Muslims can also be found in an article written by a Serb in the 1920s. They are presented as inert, mendacious, voluptuous and excessively enjoying every bodily pleasure – stereotypical ethnic character traits used as an explanation of Muslims' "notable tendency toward homosexuality" (Banać 1984: 371-2).

Interpretations of same-sex sexual behaviour as a "Turkish custom" were not limited only to those Yugoslav regions that were once under direct Ottoman rule. At the end of the 19th century, Fran S. Gundrum-Oriovčanin, chief physician at a hospital in northern Croatia, at that time part of the Austro-Hungarian Empire, while authoring the first Croatian language account on homosexuality from a medical perspective, opted for the term "à la Turca" to explain to his readers what "pederasty" meant (1899: 187-8). Back in 1924, Ivan Herzog, a psychiatrist in Zagreb, had no doubts that in the

eastern provinces of the newly founded Kingdom of Serbs, Croats and Slovenes, in regions that just a few decades earlier had been ruled by the Ottomans, homosexuality was still “quite widespread and, so to say, rather common, without encountering any opposition or moral condemnation” (1924: 25).

The literary critic Edward Said (1979: 188-99) was among the first to notice that in Europe the Orient and its people were filtered through orientalist and colonialist lenses that provided an eroticised image of Islam, as, on the one hand, sexually licentious, permissive, blurred and mystical, and, on the other hand, sexually dangerous, transgressive and exotic: an image tailored so to titillate the imagination of Western Christians. The Arabs and the Turks were depicted as lustful and depraved. This representation abounded in clichés about the Orient as a cornucopia of homoerotic experiences (ibid.: 309-15).<sup>173</sup>

The bey in Djilas’s story is both “above” and “different”, but also “dissolute”, which adds an aura of “decadence” and “immorality” to his class and ethnic features. Djilas grants mercy to the young homosexual Partisan and refuses to execute him. The young man cries and shifts the blame on the violent and lecherous bey, but his tears are also a sign of his remorse. The truly irredeemable homosexual is the bey. He is shown no mercy, no understanding and no justification. The seduced communist, however, is allowed to fight (albeit under constant supervision) and die honourably in battle.

Finally, and here the story opens to the gender discursive node, Djilas finds it important to point out that the man whose life he had just spared was “the very picture of masculinity”, a true manly man on the outside: the underlying assumption being that sexual deviance entails observable gender non-conforming behaviour. In other words, a homosexual is expected to be “effeminate”; his “vice” is expected to manifest itself not only through specific sexual acts, but also through his outward appearance, his gender subjectivity and performance. Having presumably infringed the protocols of masculine external conduct and physical appearance, the homosexual is, furthermore, feminised internally, that is, psychologically. Not only did Djilas see it necessary to emphasise his masculine appearance, but he also writes that the young homosexual Partisan was “exceptionally courageous” and “fell bravely”. In this way, Djilas expresses his surprise not only with his “masculine” looks, but also with the fact that the homosexual Partisan was, surprisingly, a courageous warrior.

All of this young communist’s features – but also all the features he does not exhibit, although he is expected to do so – clearly demonstrate that the homosexual in 1940s Yugoslavia had been completely constituted into a “species”, one of the figures in the sexual landscape of modernity (Foucault 1978: 43). The sexual and gender co-ordinates of his character traits and features blend together seamlessly, thus forming a complete and structured body of meanings – a homosexual persona, made up of his homosexual “past, history and childhood, a character, a type of life; also a morphology, with an indiscreet anatomy and possibly a mysterious physiology” (ibid.). All other meanings of his existence are saturated with his sexuality since (to quote Foucault once again): “[sexuality is] everywhere present in him: at the root of

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173. On “homoerotic Orientalism” see Aldrich (2003: 148-84) and Patanè (2006: 288-300).

all his actions as their insidious and everlastingly active principle; written indecently on his face and body because it is a secret that always gives itself away" (ibid.).<sup>174</sup> Even on occasions when he does not behave in accordance with others' expectations, when he is not effeminate or easily frightened, these traits are once more inscribed in his character in the very act of signalling their absence, of pointing out that they are – strangely – nowhere to be seen.

Nevertheless, at the end of Djilas's story, this "certain Muslim" remained "a good soldier and a zealous Communist", even if he was revealed to be a homosexual: not good enough to be allowed to stay in the Party, but also not guilty enough to be severely punished. In Djilas's eyes, he was "the one below" and "one of us", a proletarian and a resistance fighter. His homosexuality was not his fault: he was lured into it by someone "above" and "different". Because of this unfortunate "vice", the young homosexual was no longer welcomed in the Communist Party; yet the insurgent army did not abandon him completely. He was forgiven, and his repentance accepted. He was allowed to continue to fight and to fall honourably.

However, while putting this "good soldier and zealous Communist" into the broader context of the Second World War in Yugoslavia, it must be stressed that he was not in charge of any relevant or delicate military matters; he did not hold a high military or political rank; he was no more than a simple resistance fighter. Just a few years later, another homosexual Partisan – this time a high-ranking officer with extremely sensitive tasks – met an entirely different fate.

### **Seduction, sabotage and betrayal: a Partisan officer on trial**

Josip Mardešić, a 23-year-old native of Komiža, a small town on the mid-Adriatic island of Vis, joined the Yugoslav anti-fascist movement in January 1942, carrying only a radio transmitter (Braniča 1982: 267). A competent wireless operator was direly needed, and Mardešić had valuable expertise in this field. A few years earlier, he had served as a sergeant and wireless operator in the Royal Navy of the Kingdom of Yugoslavia. In the autumn of 1941, after a security check and admittance into the Communist Party, Mardešić was given false identity papers and embarked on a passenger steamer headed from Vis to Split, in Dalmatia (Huljić 1979: 126, 166, 513). He soon reached Lika, a mountainous region in inner Croatia, at that time under the control of the National Liberation Movement (NOP), home to the Central Committee of the Communist Party of Croatia and the General Staff.

During the first year of the war, intelligence exchange among insurgent Partisan troops, scattered throughout occupied Yugoslavia, was poorly co-ordinated, slow and unreliable (Četković 1976: 93-109). Immediately upon his arrival, Mardešić received orders to begin setting up radio connections. He started developing a coding system and, with the very same radio transmitter he had brought with him, set up secure and reliable communications with Tito's headquarters in Bosnia (Četković 1976: 313, 339). He soon earned the reputation of an expert,<sup>175</sup> and in late 1942 his

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174. Translation slightly corrected by author, see Foucault (1976: 59).

175. *Zbornik NOR-a. Borbe u Hrvatskoj 1942*, Vol V, Book 5. Vojnoistorijski institut, Belgrade, 1954, p. 100.



superiors nominated him as “communication officer” (Petković 1981: 263). His position made him a member of the General Staff (Četković 1976: 361). By early 1943, he was put in charge of the newly established Communication Section in the General Staff, a unit he himself had organised (Huljić and Dželebdžić 1984: 17). On 1 May 1943, when the National Liberation Army of Yugoslavia introduced officer ranks, Mardešić was directly promoted to the rank of captain.<sup>176</sup>

As chief communication officer, Mardešić was responsible for confidential and highly sensitive tasks. He managed and supervised technical work, trained new communication operators, worked on repairing old telephone lines and relay stations and setting up new ones, and, at the same time, commanded the whole Croatian resistance army’s communication network (Bogdanović 1981a; Bogdanović 1981b).

However, Mardešić kept one delicate secret from his superiors and other Partisans. Whenever he had the opportunity, he scheduled his working shifts so that he could work alongside a few of his favourite soldiers. He tried to keep a low profile and avoid the attention of the rest of his fellow fighters, probably because he was aware that his homosexual relations would not go unpunished.<sup>177</sup> Once he was discovered, a sudden and dramatic series of events ensued.

The General Staff was informed of Mardešić’s homosexuality in the last days of February 1944.<sup>178</sup> His party cell wrote a report on 1 March and he was court-martialled three days later. It remains unknown who denounced him or how he was exposed. Initially, the suggestions as to how he should be punished involved nothing harsher than a reprimand, stripping of his rank and expulsion from the Communist Party. However, since he was an important member of the General Staff, for the first couple of days the entire matter was handled in secrecy, as everyone involved waited for the final decision by the leaders of the Communist Party.<sup>179</sup>

Finally, he was brought before the Croatian Partisan Army General Staff Court of Honour. During the trial, captain Mardešić “partially confessed” that he had had homosexual relations with his subordinates. His sexual partners, however, gave “complete confessions”. The military tribunal stripped him of his rank, pronounced a judgment on his whole persona by declaring him a sick, twisted, selfish and cowardly man, and sentenced him to death. The General Staff of the National Liberation Army of Yugoslavia confirmed the verdict – as required in cases of death sentences – within three days: and the sentence could then be carried out.<sup>180</sup>

The verdict was delivered in accordance with the May 1943 Ordinance on Courts of Honour for Officers of the National Liberation Army. The role of these military

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176. “Ukaz o proizvođenju i unapređenju oficira NOVJ”; published originally in: *Bilten Vrhovnog štaba NOV i POJ*, (a. III, no. 33, October 1943), and reprinted in: *Zbornik NOR-a. Bilten Vrhovnog štaba NOVJ*, Vol II, Book 1. Vojnoistorijski institut, Belgrade, 1949, p. 361.

177. VA (Vojni arhiv) [Military Archive, Belgrade], NOVJ, K119-3 F2 D4: “Presuda Suda časti pri GŠ NOV i POH Josipu Mardešiću”, 4 March 1944 [hereafter “Sentence of J. Mardešić”].

178. VA, NOVJ, K114C F6 D15: “Izvjestaj partijske ćelije u Sekciji za vezu GŠH pomoćniku načelnika Drugog odjeljenja GŠH o organizacijskom stanju, sastancima i radu ćelije”, 1 March 1944.

179. Ibid.

180. “Sentence of J. Mardešić”.

tribunals was to “watch over the comportment, reputation, manners and actions of all the officers in every single occasion, in order to determine whether or not they were adhering to the officers’ code of honour and behaving in respect to the goals of the National Liberation Struggle”.<sup>181</sup>

There were three possible penalties for violations of this code: deposition, stripping of rank and execution. The verdict found that “by indulging in his unhealthy lust”, Mardešić “stained the honour of all the officers of the People’s army who rightfully deserved the respect and admiration of the whole wide world”.<sup>182</sup> He was also found guilty “for having seduced his subordinates to unhealthy sexual relations by exploiting their dependent position and youthful innocence”,<sup>183</sup> thus causing irreparable damage to their “normal” development. His situation was further exacerbated by a recent order from the Supreme Commander who, on 19 February, warned his officers to strictly watch over their own personal conduct and reputation, and particularly to be careful not to smear in any way the respect the army had built in the masses and the dignity of their rank.<sup>184</sup>

This conviction for homosexuality reveals the conceptual structure and the juridical cornerstones of Yugoslav Partisans’ politics towards same-sex practices, a framework that, two years earlier, had also shaped Djilas’s decision about the young homosexual Muslim (at that time, in the absence of a judicial structure and clear regulations). This framework was organised around three key elements: the sexual corruption of the youth; the perversity and immorality of the egoistic and anti-socialist homosexual personality; and the insult this represented to both the nation and the army.

In the eyes of the Partisan tribunal, the young officer was seen as a “seducer of his subordinates”, “an exploiter of their youthful innocence” and an “impediment to the healthy and natural development of their sexuality”. Once again, as was the case with the bey in Djilas’s story, we are faced with images of corruption of young people and exploitation of the weak or, in this case, subordinates, both tinged with an aura of secrecy and individualistic egoism. It was not uncommon in the military to believe that a younger partner deserved to be forgiven because his homosexuality was regarded as a temporary condition that would be superseded by heterosexual maturity; thus, younger partners were often treated as having been seduced. There was nothing to them that could not be rectified by physical activity and military discipline (Vickers 2009: 128).

Secondly, the blend of medical and moral explanations on the causes of homosexuality presented in the judgment tends to erase every idea that it could be biological or congenital in nature, and instead once more reasserts its social origins. The Mardešić verdict displays a wide array of medico-moralistic discursive mechanisms that defined a homosexual man as an unhealthy person whose actions could be traced back to his perverted sexual inclinations and twisted desires. This aetiology of same-sex sexual

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181. “Uredba o sudovima časti za oficire NOV i POJ-a”, published originally in: *Bilten Vrhovnog štaba NOV i POJ*, (a. III, no. 23, May 1943), and reprinted in: *Zbornik NOR-a. Bilten Vrhovnog štaba NOVJ*, Vol II, Book 1. Vojnoistorijski institut, Belgrade, 1949, pp. 273–4.

182. “Sentence of J. Mardešić”.

183. “Sentence of J. Mardešić”.

184. VA, NOVJ, K15 F1/1 D3: “Naredba VŠ o disciplinskoj odgovornosti vojnih lica”, 19 February 1944.

practices is then used as a moral condemnation of the “debauched” homosexual personality. Mardešić is not only guilty for having committed a specific (homosexual) act; on trial is also his “weak character” that “tends to perpetrate all sorts of crimes for personal gains”.<sup>185</sup> He is described as looking “insincere” and “cowardly”, and his personality in general is qualified as dishonourable, rotten and selfish.<sup>186</sup>

A third level identifies homosexuality as an insult to the values of war and patriotism. Homosexuality is portrayed as a symbolic stain on the military honour and an act of shameful betrayal of the nation’s confidence. Mardešić’s behaviour is described as having a destabilising effect on military morale, since this sexual conduct affected his “working skills” in a way described by the judges as “a sabotage” that endangered the goals and interests of the National Liberation War.<sup>187</sup> Apart from being a symbolic betrayer of the nation’s confidence, the homosexual is also an active saboteur.<sup>188</sup>

The sentence of Josip Mardešić is the only ruling for male homosexuality pronounced by a Yugoslav Partisan court martial I have thus far been able to find. Without at least a few more similar sentences, it is impossible to determine how consistent the Partisans were in punishing homosexuality. In any case, in interpreting and understanding this death sentence, one must bear in mind its military and socio-sexual context. The most important fact to stress is that Mardešić was punished so drastically because of his position and rank. As the commander of the whole Croatian Partisan army communication network, he had knowledge of all, including the most sensitive, information; he knew the details of confidential communication between Tito’s headquarters and Croatian generals; and he was at every moment aware of the battle force and plans of all the military units. Homosexuals were perceived as untrustworthy, weak cowards, susceptible to extortion and blackmail. The General Staff must have been shocked and concerned when it learned that the communication system was in the hands of such a man. Furthermore, what also must not be underestimated is the symbolic weight of his rank. Officers were obliged to provide role models, and their behaviour was to reproduce an image of respectability and impeccability. Therefore, the verdict blamed Mardešić for having stained the dignity and reputation of his service. On the other hand, his partners and comrades, mostly simple soldiers, were only reprimanded and, if they were members, expelled from the Communist Party, just like the simple and common Partisan fighter in Djilas’s recollection.

During the Second World War, all belligerent armies considered “homosexual proclivities” to be incompatible with military service; and many of them stated this in their recruitment regulations. The majority of queer men adapted to the heteronormative environment and adopted its cultural habits and patterns of behaviour. Many of them were discovered, but were simply tolerated because of their bravery and

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185. “Sentence of J. Mardešić”.

186. “Sentence of J. Mardešić”.

187. “Sentence of J. Mardešić”.

188. A similar argument on homosexuality as a security threat has been moved in the USSR where it was used in favour of its recriminalisation at the beginning of the 1930s. Homosexuals were described as violent, unreliable and morally rotten elements, engaged in demoralisation and moral corruption of the youth, especially workers and students. They were also accused of trying to infiltrate the army and the navy. See Healey (2001: 184-5).

competences as soldiers, or simply because it was unwise to lose people for whatever reason in such a devastating and protracted war (Vickers 2009: 125-6). The Yugoslav Partisan army was no different.

As for the sources related to the Yugoslav wartime context there are currently only two accounts of homosexuality that can be found: that of Josip Mardešić and of the Sandžak Partisan. We do not know a lot about them, and we know nothing about their partners. Did the Sandžak Partisan find it easier to meet lovers in the troops or in his hometown? Did Mardešić have homosexual experiences before joining the Partisans, perhaps in the pre-war Royal Navy? Since there are no historical studies or wartime memoirs by individuals who might have had happier endings to their personal stories, we can only guess just how many homosexuals went unnoticed, unrecognised and unpunished while experiencing romance and bodily pleasures with their comrades.

Disciplinary regulations against homosexuals were applied selectively and with considerable flexibility, often depending on the person concerned or the concrete situation. Military pragmatism was the underlying guideline, with higher national or warfare interests as the primary concern. On account of his particularly sensitive task and the symbolic value of his officer's rank, Captain Mardešić, in the eyes of the judges and his superiors, deserved the most extreme penalty. His partners, simple soldiers with valuable expertise, escaped harsh punishments, although they did not completely avoid sanctions.

The same is true for the Sandžak Partisan who escaped being executed because of his repentance and the strongly held belief that his homosexuality was an affliction caused by an exploitative bey who, by token of his "sexual perversity", symbolised a social order that the resistance movement wanted to overturn in the future socialist revolution.

The Yugoslav Resistance Army invested great efforts in preserving and promoting an image of untainted male military ethos, purity and moral comportment, which encompassed sexual respectability and impeccability. Rank, age, power and class – alongside various military pragmatic reasons – determined if and how severely someone would be punished for infringing this heteronormative code of behaviour. Thus, masculinity was denied to men that loved and had sex with other men, and with it their right to honourably wear the uniform of a Partisan fighter.

## Postscript

After the war, Josip Mardešić was mentioned on a memorial plaque dedicated to fallen Partisan fighters in his hometown on the Adriatic island of Vis. His contribution to the anti-fascist resistance had thus not been completely forgotten.

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